



*Compact
Neighborhoods*

Compact Neighborhoods Policy

The Department of Housing and Community Development will offer, effective November 14, 2012, additional incentives to municipalities that adopt zoning districts promoting the Commonwealth's strong interest in housing for working families of all incomes and in smart growth. For purposes of this Policy, these zoning districts will be called "Compact Neighborhoods." This new tool complements Chapter 40R, the Commonwealth's Smart Growth Overlay District statute.

To participate in this program, a municipality must:

- (1) identify an "as-of-right" base or overlay zoning district (Compact Neighborhood);
- (2) request and receive a Letter of Eligibility¹ from the Department, confirming that the Compact Neighborhood is in an "Eligible Location" and that the zoning meets or exceeds the applicable requirements for participation in this initiative;
- (3) adopt the Compact Neighborhood Zoning, submit proof of local adoption and receive a Letter of Certification from the Department.

The Compact Neighborhood Zoning must:

- (1) allow for a minimum number of "Future Zoned Units" in the Compact Neighborhood, which is generally one percent of the year-round housing units in that community²;
- (2) allow one or more of the following densities as-of-right in the Compact Neighborhood: a density of at least 8 units per acre for Developable Land zoned for multi-family residential use (2-family or more) or at least 4 units per acre for "Developable Land" zoned for single-family residential use;
- (3) provide that not less than 10 percent of all units constructed within "Projects" of more than 12 units are "Affordable"; and
- (4) not impose restrictions on age or any other form of occupancy restrictions upon the Compact Neighborhood as a whole (however, specific projects may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project is in compliance with all applicable fair housing laws).

In reviewing requests for eligibility, the Department will use, among others, the definitions of "As-of-Right," "Eligible Location," "Future Zoned Units," "Developable Land," "Project," and "Affordable" in the Chapter 40R regulations (760 CMR 59.01 et seq.). The 10% affordability requirement would apply to each Project of more than 12 units, rather than to the Compact Neighborhood as a whole.

¹ A Letter of Eligibility is not required for qualifying Compact Neighborhoods adopted up to five years prior to November 14, 2012. In that instance, the applying community would receive a Letter of Certification.

² For the Commonwealth's three largest cities measured by the number of year-round housing units, the minimum number of Future Zoned Units would be, respectively, 700, 500 and 500.

Municipalities may choose to require a higher percentage of affordable units or to set a lower threshold for requiring Projects to include affordable units.

If the Department certifies that the municipality has created a "Compact Neighborhood," this certification can be used by the municipality as evidence of a "Previous Municipal Action" that must be considered by a Subsidizing Agency in making the findings that are necessary under Chapter 40B for a determination of Project Eligibility (760 CMR 56.04(4)(b) and relevant Guidelines). Under the Guidelines, existence of a Compact Neighborhood may be given weight in this determination.

If the Department certifies that the municipality has created a "Compact Neighborhood," this certification can be used by the municipality when it applies for discretionary funding by state agency programs that have included a preference for adoption of a Compact Neighborhood. Such a preference is included in the MassWorks infrastructure program administered by the Executive Office of Housing and Economic Development and will be proposed for certain other funding programs this year. The list of applicable programs will be maintained and periodically updated on the Department's new Compact Neighborhoods webpage.

All municipalities are eligible. With respect to municipalities considering the adoption of a Compact Neighborhood, the Department strongly recommends an informal pre-application discussion and site visit with its staff and/or staff of one of the Commonwealth's quasi-public housing agencies prior to the municipality's request for a Letter of Eligibility. If a municipality adopted new base or overlay zoning within the last five years that meets the criteria for this program, it may apply for the Compact Neighborhood designation. Master permits approved within the last five years that allow additional development as-of-right may also qualify.

The Department has expanded its Priority Development Fund (PDF) criteria to include financial assistance to communities in adopting Compact Neighborhood Zoning. Priority for this funding will be given to creation of Compact Neighborhoods encouraging integrated mixed-use development beyond the boundaries of a single project.

The Department expects municipalities, in drafting zoning ordinances to:

- (1) create districts which meet the definition of "Smart Growth" in the Chapter 40R regulations, including not only the location and density of the Compact Center but also its emphasis on mixing land uses and sustainability principles;
- (2) promote the development of housing that is priced for households across a broad range of incomes; and
- (3) promote the development of housing appropriate for diverse populations, including households with children, other households, individuals, and households including individuals with disabilities and the elderly.

This initiative will be managed by the Department's Smart Growth Coordinator in the Office of Sustainable Communities.

SECTION 9B. SENIOR RESIDENCE

- 9B.1 Purpose** – The purpose of SENIOR Residence is to enhance the public welfare by:
- a) encouraging the development of choices of independent living accommodations for SENIORS in general;
 - b) encouraging the development of housing that is suitable for SENIORS with disabilities;
 - c) encouraging the development of affordable housing for SENIORS with low and moderate income;
- While:
- d) protecting Acton's New England character by development of land in clusters and villages, which is in greater harmony with Acton's historic development patterns and less demanding on its natural resources;
 - e) preserving land for conservation, open space, recreation, agriculture and forestry;
 - f) preserving significant land and water resources, natural areas, scenic vistas, and historic or archeological sites;
 - g) reducing the typical costs of providing municipal services to residential developments.
- 9B.2 Special Permit** – The Planning Board may grant special permits for the development and construction of a SENIOR Residence development in the R-2, R-4, R-8, R-8/4, and R-10/8 Districts in accordance with this Section and MGL, Ch. 40A, s. 9.
- 9B.2.1 Application for a Special Permit** – Any person who desires a SENIOR Residence Special Permit shall submit a written application with a site plan that meets the requirements set forth herein and in the Rules and Regulations for SENIOR Residence special permits.
- 9B.2.2 Subdivision** – If a SENIOR Residence development requires approval under the Subdivision Control Law, MGL, Ch. 41, the application shall contain a definitive subdivision plan as required by the Acton Subdivision Rules and Regulations. The applications for a SENIOR Residence special permit and a definitive subdivision approval plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.
- 9B.2.3 Underlying Zoning District** – Where the Planning Board grants a special permit for a Senior Residence, the USE, dimensional, and parking requirements applicable to the underlying zoning district shall not apply.
- 9B.3 Planning Board Action** – In evaluating a proposed SENIOR Residence development, the Planning Board shall consider the general objectives of this Bylaw and of this section 9B in particular; the existing and probable future development of surrounding areas; and the appropriateness of the proposed site plan in relation to the topography, soils and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a SENIOR Residence development if it finds that it:
- a) protects and enhances Acton's New England character, its environmental and historic resources, and scenic vistas;
 - b) provides Common Land that benefits the residents of the Town and the SENIOR Residence development;
 - c) provides quality housing for SENIORS with a range of incomes and physical abilities;

- d) provides for the safety of vehicular movement, and for the safety and convenience of pedestrians in a manner that is compatible with Acton's New England character and the needs of SENIORS;
- e) is consistent with the Acton Master Plan as amended;
- f) is in harmony with the purpose and intent of this Bylaw;
- g) will not be detrimental or injurious to the neighborhood in which it is to take place;
- h) is appropriate for the site in question;
- i) complies with the applicable requirements of the Bylaw; and
- j) meets the purpose of this Section 9B.

The Planning Board may require changes to the SENIOR Residence site plan and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw.

9B.4 Allowed USES – Only the following USES shall be allowed in a SENIOR Residence development:

9B.4.1 Single FAMILY dwellings.

9B.4.2 Single FAMILY dwellings with one apartment.

9B.4.3 Two-FAMILY dwellings.

9B.4.4 Multifamily dwellings.

9B.4.5 ACCESSORY USES typically associated with residential USES.

9B.4.6 Support services to meet SENIORS' needs, such as skilled nursing service, medical and other health service, food service, recreation and leisure facilities, or a community center; including the use of recreation, leisure, and community center facilities for commercial instruction, education and training in skills of all kinds for SENIORS and the public at large.

9B.4.7 Convenience services intended primarily for its residents, such as Retail Stores, Banks, Restaurants, and Services provided that not more than 10% of the total NET FLOOR AREA of the development is dedicated to such uses.

9B.4.8 Allowed USES on the Common Land as set forth herein.

9B.5 Dimensional Regulations – A SENIOR Residence development shall comply with the following dimensional regulations for the area of the TRACT OF LAND, density, BUILDINGS, and STRUCTURES:

9B.5.1 Minimum TRACT OF LAND area: 8 acres within the Town of Acton. For the purpose of this section, the Planning Board may consider LOTS on directly opposite sides of a STREET as a single TRACT OF LAND.

9B.5.2 Maximum density: 4 DWELLING UNITS per acre in the R-2 District, and 3 DWELLING UNITS per acre in the R-4, R-8, R-8/4, and R-10/8 Districts, based on the total development site including the Common Land.

9B.5.3 Minimum setbacks for BUILDINGS and STRUCTURES: 45 feet from any existing STREET; 15 feet from a STREET within the site; 30 feet from any TRACT OF LAND boundary; and 10 feet from the Common Land boundary, except that the Planning Board may require larger setbacks.

- 9B.5.4 Minimum separation of BUILDINGS: 20 feet for exterior walls with doors, otherwise 10 feet.
- 9B.5.5 Maximum height of BUILDINGS and STRUCTURES: 36 feet.
- 9B.5.6 Maximum horizontal dimension of a BUILDING: 200 feet.
- 9B.5.7 The Planning Board may impose other dimensional requirements as it deems appropriate to enhance the purpose and intent of this Bylaw.
- 9B.6 Parking Requirements** – 2 vehicular parking spaces per principal DWELLING UNIT, plus sufficient parking spaces for visitors, accessory facilities, and services as determined by the Planning Board.
- 9B.7 Storm Water Runoff** – The peak rate of storm water runoff from a SENIOR Residence development shall not exceed the rate existing before the new construction based on a 10-year design storm.
- 9B.8 Environmental Protection** – The Planning Board, in granting a Special Permit for a SENIOR Residence, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the advanced treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential public water resources.
- 9B.9 Common Land Standards**
- 9B.9.1 Dimensional Requirements for the Common Land – In a SENIOR Residence development, except for the conversion to a Senior Residence development of a project approved under MGL Chapter 40B before January 1, 2006, at least fifty percent (50%) of the TRACT OF LAND in Acton shall be set aside as Common Land in Acton for the use of the SENIOR residents or the general public. The following additional requirements shall apply:
- 9B.9.1.1 The minimum required area of the Common Land shall not contain a greater percentage of wetlands, as defined in MGL Chapter 131, Section 40, than the percentage of wetlands found in the overall TRACT OF LAND on which the SENIOR Residence development is located.
- 9B.9.1.2 Eighty percent (80%) of the minimum required Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes or USES. Each such Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide. The other twenty percent (20%) of the Common Land may be scattered throughout the development site for buffer, screening, or park purposes.
- 9B.9.1.3 If the TRACT OF LAND of the SENIOR Residence development abuts adjacent Common Land or undeveloped LOTS, the Common Land shall be laid out to abut the adjacent Common Land or undeveloped LOTS.
- 9B.9.2 USE of the Common Land – The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park

purposes, agriculture, horticulture, forestry, or for a combination of those USES. No other USES shall be allowed in the Common Land, except as provided for herein:

- 9B.9.2.1 The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in order to enhance the specific purposes of this Section 9B.
- 9B.9.2.2 The Common Land shall remain unbuilt upon, provided that an overall maximum of five (5) percent of such land may be subject to pavement and STRUCTURES accessory to the dedicated USE or USES of the Common Land.
- 9B.9.2.3 In addition, a portion of the Common Land may also be used for the construction of leaching areas, if associated with septic disposal systems serving the SENIOR Residence development, and if such use, in the opinion of the Planning Board, enhances the specific purpose of this Section 9B and promotes better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the owners of the DWELLING UNITS in the SENIOR Residence development.
- 9B.9.2.4 In addition, a portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths, and emergency access or egress to the SENIOR Residence development or adjacent land, if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.
- 9B.9.2.5 Portions of the Common Land that are in excess of the minimum Common Land total area and upland area as calculated in accordance with Section 9B.9.1, including its subsection 9B.9.1.1, may be used for storm water detention and retention facilities serving the STREETS and ways in the SENIOR Residence development, including infrastructure such as pipes, swales, catch basins, and manholes, and parcels and easements associated with such facilities.
- 9B.9.3 Ownership of the Common Land - The Common Land shall be conveyed in whole or in part to the Town of Acton and accepted by it, or to a non-profit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and USES to which the Common Land may be dedicated. The Common Land may also be conveyed to a corporation or trust owned or to be owned by the owners of DWELLING UNITS within the SENIOR Residence development. The Planning Board shall approve the form of ownership of the Common Land. If the Common Land or any portion thereof is not conveyed to the Town of Acton, a perpetual restriction, approved by the Planning Board and enforceable by the Town of Acton, shall be imposed on the use of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with the provisions for a SENIOR Residence development as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual SENIOR Residence development. At the time of its conveyance, the Common Land shall be free of all encumbrances, mortgages, tax liens or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

- 9B.10 Accessibility** – All DWELLING UNITS in a SENIOR Residence development shall be designed and constructed to be adaptable with only minor structural changes to meet the requirements for Group 2B residences as set forth in the Massachusetts Building Code, 521CMR (Architectural Access Board), as amended.
- 9B.11 Age Restriction** – All DWELLING UNITS in a SENIOR Residence development shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall limit the DWELLING UNITS to occupancy by SENIORS, age 55 or older, or their spouses of any age; provide for reasonable, time-limited guest visitation rights; and authorize special exceptions that allow persons of all ages to live in a DWELLING UNIT together with a SENIOR resident as the Planning Board shall further define and specify in its special permit. The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of DWELLING UNITS in the SENIOR Residence development or by the Town of Acton.
- 9B.12 Affordability** – Some of the DWELLING UNITS in a SENIOR Residence development shall be sold, rented, or leased at prices and rates that are affordable to LOW and MODERATE INCOME SENIORS, as more specifically set forth in the following:
- 9B.12.1 AFFORDABLE SENIOR RESIDENCE defined** – The term AFFORDABLE SENIOR RESIDENCE as used in this section 9B shall refer to DWELLING UNITS, which are restricted to sale, lease or rental (1) to SENIORS within specific income and asset limitations, and (2) at specific price limits, both in accordance with provisions set forth in any State or Federal rental assistance programs, subsidy programs for reducing mortgage payments, or other programs that provide for affordable housing for low and moderate income SENIORS, and that are in effect at the time that the project application is made to the Planning Board.
- 9B.12.2 Basic Affordability Component** – At least 5% of the DWELLING UNITS in a SENIOR Residence development, rounded to the next integer, shall be AFFORDABLE SENIOR RESIDENCES. When rounding, fractions of .5 shall be rounded up.
- 9B.12.3 Density Bonus Option** -
- 9B.12.3.1** The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 6 per acre in the R-2 District, and to 4 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 10% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.
- 9B.12.3.2** The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 7 per acre in the R-2 District, and to 5 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 15% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.
- 9B.12.3.3** Rounding to whole unit numbers shall be made to the nearest integer. When rounding, fractions of .5 shall be rounded up.
- 9B.12.3.4** The Planning Board may further adjust or waive the dimensional requirements of section 9B.5, the parking requirements of section 9B.6, and the Common Land requirements of 9B.9 to the extent reasonable and necessary to facilitate the production of affordable DWELLING UNITS under this density bonus option.
- 9B.12.4 Affordability Standards** – Subject to Planning Board approval, an applicant for a SENIOR Residence special permit may utilize an available State or Federal assistance

program or choose to meet the AFFORDABLE SENIOR RESIDENCE requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for AFFORDABLE SENIOR RESIDENCES that are generally consistent with available affordable housing assistance programs.

- 9B.12.5 Affordability Restrictions – AFFORDABLE SENIOR RESIDENCES shall be maintained as such for the life of the SENIOR Residence development. Each AFFORDABLE SENIOR RESIDENCE shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the USE and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for such maximum time as may be permitted under applicable state law governing such restrictions. They shall be enforceable and renewable by the Town of Acton through standard procedures provided by applicable law.
- 9B.12.5.1 The Planning Board may require that the restrictions for AFFORDABLE SENIOR RESIDENCES contain a right of first refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such right of first refusal to the Town of Acton or its designee prior to selling the AFFORDABLE SENIOR RESIDENCE with adequate time for the Town or its designee to exercise the right of first refusal.
- 9B.12.5.2 Nothing in this Section shall be construed to cause eviction of an owner or tenant of an AFFORDABLE SENIOR RESIDENCE due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE SENIOR RESIDENCE shall be enforced upon resale, re-rental, or re-release of the AFFORDABLE SENIOR RESIDENCE. The mechanisms and remedies to enforce the restrictions governing an AFFORDABLE SENIOR RESIDENCE upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.
- 9B.12.5.3 All contractual agreements with the Town of Acton and other documents necessary to insure the long term affordability of an AFFORDABLE SENIOR RESIDENCE shall be executed prior to the issuance of any building permit for it.
- 9B.12.6 Locations and compatibility of AFFORDABLE SENIOR RESIDENCES – AFFORDABLE SENIOR RESIDENCES shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE SENIOR RESIDENCES. The exterior of AFFORDABLE SENIOR RESIDENCES shall be compatible with, and as much as possible indistinguishable from, market-rate DWELLING UNITS in the SENIOR Residence development. All internal design features of AFFORDABLE SENIOR RESIDENCES shall be substantially the same as those of market-rate DWELLING UNITS.
- 9B.12.7 Local Preference – Unless otherwise regulated by an applicable Federal or State agency under a financing or other subsidy program, at least sixty-five percent (65%) of the AFFORDABLE SENIOR RESIDENCES shall be initially offered to Acton SENIORS.
- 9B.12.7.1 Residency in Acton shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence.
- 9B.12.7.2 Purchaser/tenant selection – Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.

- 9B.12.7.3 These restrictions shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE SENIOR RESIDENCE. The developer of the SENIOR Residence shall make a diligent effort to locate eligible purchasers or renters for the AFFORDABLE SENIOR RESIDENCE who meet the local preference criteria and the applicable income requirements.
- 9B.12.8 Timing of construction – As a condition of the issuance of a special permit under this Section, the Planning Board may set a time or development schedule for the construction of AFFORDABLE SENIOR RESIDENCES and market-rate DWELLING UNITS in the SENIOR Residence.
- 9B.12.9 Affordable Housing Alternatives - The Planning Board in its special permit may authorize or require the substitution of required AFFORDABLE SENIOR RESIDENCES with:
- 9B.12.9.1 Off-site AFFORDABLE DWELLING UNITS, which shall be in suitable condition for family or individual persons' housing as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B; or
- 9B.12.9.2 Monetary contributions in support of affordable housing made to the Acton Community Housing Program Fund. To be eligible for this alternative, the Planning Board, upon recommendation from the Acton Community Housing Corporation, must determine that there will be an extraordinary benefit or advantage to achieving the Town's affordable housing objectives as a result of allowing a monetary contribution rather than providing the AFFORDABLE DWELLING UNITS as otherwise required herein. The amount of the contribution shall be determined as the total of (a) the amount equal to the product of the otherwise required number of AFFORDABLE DWELLING UNITS times the difference in sale price between the AFFORDABLE DWELLING UNITS and the equivalent market-rate units, plus (b) all avoided costs associated with that number of otherwise required AFFORDABLE DWELLING UNITS including, but not limited to (1) preparation and recording of affordable housing restrictions or deed riders, (2) preparation of cost, income and eligibility certifications, (3) marketing and lottery administration, (4) closing costs, and (5) costs to obtain the inclusion of those units in Acton's subsidized housing inventory under M.G.L. Chapter 40B.
- 9B.13 Streets, Utilities and Lighting** – Generally, all STREETS and ways, drainage facilities, and utilities shall be designed and constructed in compliance with the Acton Subdivision Rules and Regulations whether or not the SENIOR Residence development is a subdivision. The Planning Board may approve exceptions to the Subdivision Rules and Regulations provided the Board determines such exceptions are consistent with the purposes of this Bylaw. The Planning Board may impose appropriate standards for all outdoor lighting within a SENIOR Residence development.
- 9B.14 Performance Guarantee** – Before the issuance of any building permits for SENIOR Residences, the applicant shall secure the required improvements for STREETS, ways, drainage, erosion control and other items specified by the Planning Board with a performance guarantee consistent with the Acton Subdivision Rules and Regulations.
- 9B.15 Revisions and Amendments** – Following the approval of a SENIOR Residence development, any change in the layout of STREETS and ways; in the configuration, ownership or use of the Common Land; or any other change which, in the opinion of the Zoning Enforcement Officer, would significantly alter the character of the SENIOR Residence development, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and

hold a public hearing pursuant to the requirements of this Bylaw if it finds that the proposed changes are substantial in nature and of public concern.

Such rules and regulations shall set forth the application filing requirements to ensure that the application, including any plans and accompanying text, provides sufficient information for a full evaluation of resulting impacts on the GROUNDWATER resources, and to allow the Planning Board an evaluation of the application under the criteria set forth in section 4.3.8.2 above.

- 4.3.8.4 Submittal of "As Built" Plan – Upon completion of any work authorized through a Special Permit under this Section, an "as built" plan prepared by a Registered Professional Engineer, showing all improvements authorized or required, shall be submitted to the Zoning Enforcement Officer for approval prior to the issuance of an Occupancy Permit.

4.4 **AFFORDABLE Housing Incentives and Overlay District**

- 4.4.1 Purpose – The purpose of this Section is to enhance the public welfare by increasing the production of DWELLING UNITS AFFORDABLE to persons and households of LOW-INCOME and MODERATE-INCOME. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, the Town encourages new housing developments to contain a proportion of the DWELLING UNITS AFFORDABLE to persons or households of LOW-INCOME and MODERATE-INCOME. Accordingly, the provisions of this Section are designed: (1) to increase the supply of housing in the Town of Acton that is available to and AFFORDABLE by LOW-INCOME and MODERATE-INCOME households; (2) to encourage a greater diversity of housing accommodations to meet the diverse needs of FAMILIES and other Town residents; and (3) to promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town.

4.4.2 Applicability

- 4.4.2.1 The provisions of this Section 4.4 may be utilized by any new development located within the AFFORDABLE Housing Overlay District, subject to the requirements and standards set forth in this Section 4.4.

- 4.4.2.2 The AFFORDABLE Housing Overlay District is defined and bounded as shown on the "Affordable Housing Overlay District Map of the Town of Acton". The AFFORDABLE Housing Overlay District shall consist of two Sub-Districts:

- a) Sub-District A – In the Sub-District A, the Planning Board, when issuing a Special Permit for an Open Space Development pursuant to Section 4.2, may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3.
- b) Sub-District B – In the Sub-District B, the Planning Board may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3, or alternatively, the Planning Board may allow by Special Permit a Major AFFORDABLE Housing Development as provided in Section 4.4.4.

- 4.4.2.3 Said AFFORDABLE Housing Overlay District is superimposed over all Districts established by this Bylaw and the regulations related to the AFFORDABLE Housing Overlay District are in addition to all other regulations set forth in this Bylaw. Where the requirements and standards within the AFFORDABLE Housing Overlay District, as set forth in this Section 4.4, differ from or conflict with the requirements and standards of the remainder of the Bylaw, the requirements and standards established for the AFFORDABLE Housing Overlay District shall prevail, except for standards established in the Groundwater Protection and Flood Plain Districts.

- 4.4.2.4 The AFFORDABLE Housing Overlay District includes parcels of land which are not located in a Residential District and where residential USES are not otherwise allowed. For the purpose of utilizing the provisions of this Section 4.4 to generate AFFORDABLE housing, but under no other circumstances, residential USES shall be permitted on such parcels. In order to establish a reference point as a base line for any dimensional provisions set forth in this Section 4.4, the dimensional standards of the Residence 4 (R-4) District shall be assumed for such parcels.
- 4.4.3 Minor AFFORDABLE Housing Developments – A Minor AFFORDABLE Housing Development shall be regarded as an additional development option for land located in either Sub-District of the AFFORDABLE Housing Overlay District. Any Minor AFFORDABLE Housing Development shall be an Open Space Development following the provisions of Section 4.2 of this Bylaw, except as modified hereunder. The Planning Board, in issuing an Open Space Development Special Permit under Section 4.2, may authorize a Minor AFFORDABLE Housing Development, subject to the following provisions and requirements:
- 4.4.3.1 Number of DWELLING UNITS to be provided – The Planning Board may allow any new Open Space Development to have a greater number of DWELLING UNITS than would otherwise be allowed under the provisions of Section 4.2 and other provisions of this Bylaw, up to a maximum of twenty five percent (25%) more. In order to receive such an increase or density bonus, a portion of the DWELLING UNITS provided within an Open Space Development shall be AFFORDABLE, in accordance with one of the following methods or a combination thereof:

Method of Providing AFFORDABLE DWELLING UNITS	Percentage increase in DWELLING UNITS allowed for each one percent (1%) of the total number of DWELLING UNITS which is AFFORDABLE*
Option 1: Donation to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 2: Sale to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%
Option 3: Sale, lease or rental to MODERATE-INCOME households, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 1.75% in the total number of DWELLING UNITS.*	1.75%
Option 4: Cash payment to the Town of Acton or its designee in lieu of providing AFFORDABLE DWELLING UNITS. Such cash payment shall be of an amount equal to the cost of developing such DWELLING UNITS as evidenced by a Development Pro Forma, prepared by the developer and acceptable to the Planning Board. Such cash payment shall be reserved solely for the purpose of the purchase, rehabilitation and/or construction of LOW-INCOME and MODERATE-INCOME housing. For each monetary amount paid under this option which is equal to the cost of developing 1.0% of the total number of DWELLING UNITS a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 5: An arrangement with the Town of Acton or its designee, whereby title to the property underlying the prospective AFFORDABLE DWELLING UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE-INCOME households as defined in this Bylaw. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%

* Results of percentage increases in DWELLING UNITS shall be rounded up to the next whole number to determine the total number of DWELLING UNITS. Percentages for AFFORDABLE DWELLING UNITS (or for DWELLING UNITS for which cash payment is made under Option 4) shall be calculated from this total number of DWELLING UNITS and results shall then be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS to be provided (or the number of DWELLING UNITS for which cash payment is to be made).

Example:

Development	without density bonus	with 10% density bonus	with 25% density bonus
Total number of DWELLING UNITS	25	27.5 - rounded up to next whole number = <u>28</u>	31.25 - rounded up to next whole number = <u>32</u>
Number of AFFORDABLE DWELLING UNITS provided under			
Option 1	0	0.56 rounded up to <u>1</u>	1.60 rounded up to <u>2</u>
Option 2	0	1.12 rounded up to <u>2</u>	3.20 rounded up to <u>4</u>
Option 3	0	1.60 rounded up to <u>2</u>	4.57 rounded up to <u>5</u>
Option 4	0	None / Cash payment for constructing 0.56, rounded up to <u>1</u> , DWELLING UNIT	None / Cash payment for constructing 1.60, rounded up to <u>2</u> , DWELLING UNITS
Option 5	0	1.12 rounded up to <u>2</u>	3.20 rounded up to <u>4</u>

Nothing herein shall be construed to prevent the voluntary inclusion of additional AFFORDABLE DWELLING UNITS at the developer's choice without exceeding the maximum density increase of 25%.

- 4.4.3.2 Adjustments of dimensional requirements – The Planning Board may allow a reduction in the Dimensional Requirements found in Section 4.2.3.3 for LOTS and STRUCTURES. The percentage reduction shall not exceed the percentage increase in the number of DWELLING UNITS permitted under Section 4.4.3.1 above.
- 4.4.3.3 Two-FAMILY STRUCTURES – The Planning Board may allow the construction of two-FAMILY STRUCTURES which are designed to be consistent in character with the single FAMILY STRUCTURES in the same development. Such two-FAMILY STRUCTURES may be allowed at a rate of one two-FAMILY STRUCTURE in place of two single FAMILY STRUCTURES where the following conditions are met:
- at least fifteen percent (15%) of the total number of DWELLING UNITS are AFFORDABLE under Options 1,2,3 or 5 of Section 4.4.3.1 above;
 - the two-FAMILY STRUCTURES have no more than one (1) doorway facing the front yard area and shall, in terms of exterior appearance be compatible in design, and to the extent practicable, be indistinguishable from the single FAMILY STRUCTURES in the same development;
 - not more than fifty percent (50%) of the total number of STRUCTURES are two-FAMILY STRUCTURES, and
 - the number of AFFORDABLE DWELLING UNITS located in two-FAMILY STRUCTURES does not exceed two (2), or fifty percent (50%) of the total number of AFFORDABLE DWELLING UNITS, whichever results in the greater number of AFFORDABLE DWELLING UNITS to be located in two-FAMILY STRUCTURES.

Where two-FAMILY STRUCTURES are part of the development plan, the Planning Board may permit the side yard requirement to be eliminated so as to allow the separate sale of individual DWELLING UNITS within a two-FAMILY STRUCTURE along with their respective accompanying yard area. Where two-FAMILY STRUCTURES are allowed, the combined LOT area upon which the DWELLING UNITS of the two-FAMILY STRUCTURE are located only needs to comply with the LOT

8.7.12 Severability.

If any provision of this Section 8.7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.7 shall remain in full force and effect. The invalidity of any provision of this Section 8.7 shall not affect the validity of the remainder of the Town of Andover's Zoning By-Law.

ANDOVER

8.8 SENIOR RESIDENTIAL COMMUNITY OVERLAY DISTRICT (SRCOD)

[Added 5-7-2013 ATM, Art. 26]

8.8.1 Purpose.

The intent of this section is to allow flexibility in the development of parcels for housing and related services for persons 62 or older, with particular interest in meeting the needs of residents of Andover. The objectives of this section are to achieve the following purposes:

1. To provide for the development and use of alternative housing and care for an aging population in accordance with the Town's Master Plan.
2. To create an environment that provides supportive services routinely used by an aging population.
3. To promote housing options that adapt to the needs of an aging population.
4. To preserve the Town's residential character.
5. To encourage the preservation of open spaces and protection of the Merrimack River.
6. To encourage housing affordable to the aging population who are Andover residents.

8.8.2 Applicability.

A Senior Residential Community Overlay District includes all the lands designated on the plan titled, "Proposed Senior Residential Community Overlay District", dated December 4, 2012, as prepared by and reviewed by the Town Engineer, which plans are on file in the Office of the Town Clerk and which are hereby made part of the Town Zoning Maps. The Planning Board may grant a special permit for one or more of the uses as described herein.

8.8.3 Definitions.

For the purpose of this section of the by-law, the following definitions shall apply:

Senior – Any person having reached the age of sixty-two (62) years.

Senior Household – Any household having at least one person 62 years or older.

Aging Population – Population having reached the age of 62 years or older.

Senior Residential Community Overlay District (SRCOD) – A district comprised of any use or combination of uses as defined herein. A SRCOD may include one or more of the following: independent housing, congregate housing, assisted living, memory care, restorative care/skilled nursing facilities, home health care and associated services primarily for the purposes of serving the aging population on-site.

Dwelling Unit (DU) – One or more living or sleeping rooms arranged for the use of one or more seniors living in a single housekeeping unit (excluding mobile homes and trailers). The intent of this definition for this section is to define a "home" with private sleeping quarters rather than a dormitory arrangement of sleeping quarters.

Independent Living Unit – Private residential dwelling unit individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. This type of housing is for independently functioning seniors.

Congregate Housing – Dwelling units that provide private or communal living for seniors who ordinarily are ambulatory and require no (or limited) medical attention or supervision. Such units shall consist of a room or rooms forming a habitable unit for up to ten persons, with facilities used for living, bathing, cooking, eating and private sleeping quarters.

Assisted Living Facility – Dwelling units for seniors who have difficulty functioning independently and require oversight and

assistance with one or more activities of daily living such as dressing, eating, bathing, walking or toileting, which are provided by a 24 hour staff. Such units may include a bedroom, bathroom, and sitting area. In addition dining services and full personal care are provided. Special care programs specifically designed for seniors with memory loss are included in this category. The Assisted Living must obtain all required permits and/or licenses required to operate such a facility and must be certified by the Executive Office of Elder Affairs or applicable State agency.

Restorative Care/Skilled Nursing Facility – Includes any institution which provides 24 hour skilled nursing care to seniors admitted for convalescent care, rehabilitative care, or long-term care. Programs include additional professions such as physical therapy, occupational therapy, speech therapy, social services, and medical oversight. The Restorative Care/Skilled Nursing Facility must obtain all required permits and/or licenses required to operate such a facility and must be certified by the Executive Office of Elder Affairs or applicable State agency.

8.8.4 Types of Dwellings, Uses and Associated Services Permitted.

Applications for special permits within the SRCOD shall contain at least one of the following housing types, attached or detached, in any combination: Independent; Congregate Housing; Assisted Living Facility; and Restorative Care/Nursing Facility.

1. In addition to dwelling units an application may contain any or all of the following uses and associated services (not to exceed twenty-five percent (25%) of the total square footage of all the residential buildings within the project), individually or in any combination:
 - a. Dining rooms, coffee shops and related kitchen areas and facilities;
 - b. Living rooms, libraries, music rooms, auditoriums, greenhouses;
 - c. Lounges, card rooms, meeting rooms, and other social and recreational areas;
 - d. Administrative offices, social service offices;
 - e. Mail rooms, gift shops and sundries;
 - f. Medical offices, diagnostic and treatment centers, wellness centers, exercise areas;
 - g. Salon, spa, barbers and hairdressers;
 - h. Banks and ATM banking machines;
 - i. Home health care;
 - j. Adult Day Health Care services;
 - k. Community Space;
 - l. Hobby.
2. All uses and associated services are intended for SRCOD residents, employees and guests and are not intended to provide services to the general public.

8.8.5 Dimensional Requirements and Design Standards.

1. *Density.* A special permit granted by the Planning Board shall meet the following minimum requirements:
 - a. 5,000 square feet of lot area for each detached Independent Living Unit.
 - b. 4,000 square feet of lot area for each attached Independent Living Unit.
 - c. 3,000 square feet of lot area for each bedroom in an assisted living, congregate housing, skilled nursing facility.
 - d. Within the SRCOD, there shall be no more than 200 Independent Living Units (attached or detached).

- e. Within the SRCOD, there shall be no more than 200 bedrooms in all assisted living, congregate living and skilled nursing facility.

2. *Building Height.*

- a. Any new addition or new construction, as measured from the property line, within two hundred (200) feet back from River Road shall not exceed thirty-five (35) feet.
- b. Any new addition or new construction, as measured from the property line beyond 200 feet back from River Road shall not exceed sixty (60) feet.

3. *Building Setbacks.* Buildings shall be set back a minimum of forty (40) feet from all property lines.

4. *Building Footprint.*

- a. Within a distance of 200 feet of River Road the maximum building footprint for a building shall be 25,000 square feet.
- b. Beyond a distance of 200 feet of River Road, the maximum building footprint shall be 60,000 square feet.

5. *Yard Requirements.* There are no yard requirements between buildings within the SRCOD, however, all structures must conform to the Massachusetts Building Code with respect to building separation and fire walls. In a SRCOD, more than one building may be erected on a single lot.

6. *Common Open Space.* Common Open Space is the land within the parcel or lot which is not specifically reserved for the support of dwelling units and which is not covered by buildings, roads, driveways, parking areas or service areas, or which is not set aside as private yards, patios or gardens for residents. All Common Open Space shall be open and unobstructed to the sky - flagpoles, sculptures, benches, swimming pools, tennis courts, atriums, trees and similar objects shall not be considered obstructions.

The area of Common Open Space shall equal at least twenty percent (20%) of the total area of the parcel or lot.

7. *Protected Open Space.* Protected Open Space is the land within the parcel or lot that will be protected in perpetuity. The area of Protected Open Space shall equal at least thirty percent (30%) of the total area of the parcel or lot.

Such open space land shall either be conveyed to the Town of Andover and accepted by the Board of Selectmen for park or open space use or be conveyed to a nonprofit organization, approved by the Planning Board in its total discretion, the principal purpose of which organization is the conservation of open space. In any case where such land is not conveyed to the Town a restriction enforceable by the Town of Andover as approved by Town Counsel and approved by the Secretary of Energy and Environmental Affairs pursuant to Massachusetts General Laws Chapter 184 Section 32 shall be recorded by the applicant prior to the issuance of a building permit, providing that such land shall be kept in an open or natural state in perpetuity and not be built upon or developed for accessory uses such as parking or roadway. All such open space shall be restricted by deed from all future building. Before final approval of the special permit by the Planning Board, the applicant shall state which of the two conveyance options above is being proposed, and such conveyance or restriction, if approved, shall be recorded by the applicant, as a restriction on the development plan prior to issuance of a building permit.

[Amended 5-8-2017 ATM, Art. 65]

8. *Affordability.*

- a. A minimum of fifteen percent (15%) of the total number of living units shall be set aside as affordable housing units for seniors who qualify as low, moderate, or upper-moderate income persons as defined as follows:

Low income: Below 60% of the Lawrence Standard Metropolitan Statistical Area (SMSA) median income based on Housing and Urban Development (HUD) figures ("median income") adjusted for household size.

Moderate income: 60-79% of median income.

Upper-moderate income: 80-120% of median income.

- b. In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit.
- c. To the extent legally permissible, the affordable units shall be offered to give the maximum preference allowed by law to current seniors of the Town of Andover, employees of the Town of Andover, Andover natives and relatives of current Andover residents ("Local Preference"). This condition is intended to complement and not to override or supersede the fair marketing regulations of the Department of Housing and Community Development (DHCD), the Massachusetts Commission Against Discrimination (MCAD), or any authority with jurisdiction and like purpose, to provide low- and moderate-income housing.
- d. Such affordable units may be rented, sold or otherwise provided to qualified seniors in accordance with income and asset limitations established by the authorizing state or federal agency in those instances where the affordable units benefit directly from such assistance, or in the absence thereof pursuant to the definitions of income and assets established for the Low-Income Housing Tax Credit program, or pursuant to the standards promulgated by the Planning Board.
- e. Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to the market-rate units in terms of location, quality and character.
- f. Of the affordable units, the applicant shall set aside units representing all three income levels as follows: 30% shall serve low income persons, 40% shall serve moderate income persons and 30% shall serve upper-moderate income persons.
- g. Although eligibility for the affordable units shall be determined by reference to income and assets of the prospective residents, the affordable units shall be considered affordable only if they are restricted in the amount of monthly rent or other monthly charges for the unit based upon a percentage of the applicable median income. For purposes of computing the monthly rent or other monthly charges for the unit, there shall be excluded any special charges for extra or specialized services which are not provided to the general population of the project but are unique to the particular needs of an individual senior. The standards of affordability for proposed projects, including, without limitation, the methods of determining and maintaining eligibility, the percentage of applicable median income used for limiting the monthly amounts charged for the affordable units and any variations in the percentages of median income in the three income levels shall be set and revised from time to time by the Planning Board provided said standards are consistent with appropriate federal and state standards.
- h. Prior to the issuance of any building permit for any units, affordability restrictions maintaining all affordable units in perpetuity shall be embodied in applicable deed covenants, contractual agreements and/or other mechanisms to ensure compliance with this section and shall be submitted to the Planning Board and Town Counsel for review and approval. Prior to the issuance of any building permit for any units, a clearance certificate shall be required to be issued by the Planning Division indicating compliance with this subsection. No clearance certificate shall be issued for any units until (a) all documents necessary to ensure compliance with this subsection including, without limitation, the documents referred to in this Section regarding affordability, including an affordability restriction executed by the Commonwealth's Secretary of Housing and Community Development pursuant to General Laws Chapter 184, Section 32, have been executed and recorded at the Registry of Deeds; and (b) any required cash or other contribution has been made to the Town or its designee.
[Amended 5-8-2017 ATM, Art. 66]
- i. Nothing in this subsection shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups.
- j. For purposes of ensuring that the applicant is abiding by its obligations relative to the affordable units pursuant to the special permit, a monitoring agent shall be assigned by the Planning Board and prior to the issuance of a building permit, a monitoring agreement shall have been submitted to the Planning Board and Town Counsel for review and approval. The applicant and successors and assigns as owners of the project (applicant/owner), shall pay, in perpetuity, any reasonable fees charged by the monitoring agent/agency.
- k. If an affordable dwelling unit is a rental unit, on each anniversary of the unit, the applicant/owner will obtain and maintain on file a Certification of Tenant Eligibility in a form and for the time period approved by the monitoring agent. Such Certifications shall be filed annually with the Planning Division in the Town of Andover. The applicant shall verify

that the income provided by an applicant in an income certification is accurate. The applicant will maintain complete and accurate records pertaining to the Affordable Units, and during reasonable business hours and upon reasonable notice, will permit the Town to inspect the books and records of the applicant pertaining to the Affordable Units.

- I. The applicant may, with the permission of the Planning Board, in lieu of one or more affordable ownership unit(s), contribute to the Town of Andover Municipal Affordable Housing Trust Fund, a cash contribution determined by the Planning Board in combination with the Housing Trust Fund Board of Trustees, and is to be used for the benefit of senior households in Andover.
9. *Access and On-site Circulation.* Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) thereon for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
10. *Public Safety.*
 - a. The facility shall have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. Said system shall be reviewed and approved by Andover Fire Rescue.
 - b. There shall be sufficient site access for public safety vehicles.
 - c. A plan shall be approved by Andover Fire Rescue for the emergency evacuation of residents, regardless of impairments.
 - d. The Andover Fire Chief shall review all structures and circulation to ensure the accessibility of fire and other emergency vehicles.
11. *Landscaping.* Landscaping and screening is required to obscure visibility of parking areas, dumpster locations and loading areas from beyond the boundaries of the premises.
12. *Transportation Services.* Transportation to town services and facilities shall be provided.
13. *Water.* The proposed development shall be supplied with an adequate water system approved by the Water Division, Fire Rescue and Board of Health.
14. *Waste Disposal.* The proposed development shall be connected to a municipal sewer system or an adequate sewage disposal system approved by the Andover Board of Health.
15. *Age Restrictions.* All dwelling units within the SRCOD shall require at least one resident to have attained the age of 62 and no resident shall be under the age of 18. Prior to issuance of the first building permit for a building, the applicant shall record a restriction, approved by Town Counsel, that all units shall require at least one resident to have attained the age of 62 and that no resident of a dwelling unit shall be under the age of 18.

8.8.6 Design Objectives.

Each project within the SCROD shall:

1. Blend the scale of institutional, professional and residential structures into the site design.
2. Provide safe vehicular and pedestrian ways, and minimize traffic impacts.
3. Provide a minimum of two vehicular access and egress points for each project.
4. Preserve natural features, wetlands, scenic vistas and open spaces when possible.
5. Consider site design that meets the specific needs of the aging population.
6. Minimize the visual impact of parking areas.
7. Incorporate energy efficient and environmentally sensitive principles.

8. Provide suitable means of access and egress to dwellings for persons with disabilities. Enclosed walkways and/or unenclosed walkways connecting all buildings shall be permitted.
9. Shall incorporate pedestrian amenities, accessory uses and community benefits into the overall design in a harmonious way.
10. Locate structures on the site so as to provide for the privacy of residents adjacent to the SRCOD.
11. Provide a Site Management Plan developed to outline the ongoing maintenance of the Common Open Space to ensure its function, appearance, cleanliness, and for ongoing drainage and utility maintenance.
12. Clearly identify on a plan the publicly owned and/or publicly accessible land areas.
13. Provide for public pedestrian access from River Road to the Merrimack River when possible. All development proposals which include frontage along the Merrimack River shall include existing and future pedestrian pathways within 500 feet of the river for public use and enjoyment. (No pathway within 500 feet of the river should have an impervious surface). Said pedestrian pathway shall be publicly accessible via a public access easement or conveyance. The easement width for these pathways shall be not less than twenty (20) feet, unless otherwise approved by the Planning Board.
14. Incorporate low-impact development (LID) design techniques or Stormwater Best Management Practices (such as, but not limited to, pervious paving, landscape swales, vegetative filters or rain gardens, and landscape infiltration facilities) to lessen the environmental impact of development along the Merrimack River.

8.8.7 Roadway and Parking Requirements.

The following parking standards shall apply to SRCOD facilities approved under this section of the by-law. The Planning Board may waive the construction of parking until it is demonstrated that it is needed. However, parking areas shall be designated to anticipate the future demand. The minimum requirements are as follows:

1. *Detached Independent Living*: One (1) parking space per dwelling unit.
2. *Attached Independent Living*: One (1) parking space per dwelling unit.
3. *Congregate Housing and Assisted Living*: One (1) parking space for every five beds and one (1) parking space for each employee on the largest shift.
4. *Restorative Care or Nursing Care facility*: One (1) parking space for every twenty (20) beds and one (1) parking space for every employee on the largest shift.

All other parking and screening provisions of the Andover Zoning By-laws shall apply unless changed by this section.

If there is a mix of uses, the Planning Board may waive the parking requirements to reduce the amount of impervious material on site. The Planning Board may require areas to be set aside for future parking needs.

8.8.8 Bonus.

The granting of any bonus density shall not exempt the applicant from meeting any of the other requirements of this or other reference sections of the Bylaw. Any bonus proposal must be reviewed and approved by the Planning Board and clearly stated in the special permit.

Open Space: The objective is to increase the amount of Protected Open Space on the site and provide public access to the Merrimack River. The number of dwelling units (Independent Living, Congregate Care or Assisted Living Units or Nursing/Restorative beds) proposed may be increased by fifteen (15%) percent (i.e. for every 10 dwelling units, 2 additional dwelling units may be built) if the proposed SRCOD provides fifty (50%) Protected Open Space instead of thirty (30%) percent. A Protected Open Space plan shall identify all of the Common and Protected Open Space, and the publicly accessible land areas, with the intent of providing for public access from River Road to the Merrimack River.

Preservation: The objective is to preserve existing buildings within the district. The number of dwelling units (Independent Living, Congregate Care or Assisted Living Units or Nursing/Restorative beds) proposed may be increased by fifteen percent (15%) (i.e. for every 10 dwelling units, 2 additional dwelling units may be built) if the proponent of the SRCOD includes the preservation and rehabilitation of existing buildings as part of the redevelopment plan.

Affordable Housing: The objective is to provide additional alternative affordable housing options for seniors in Andover having reached the age of sixty-two (62). The number of dwelling units (Independent Living, Congregate Care or Assisted Living Units) may be increased by two (2) market rate dwelling units for each one (1) additional affordable unit.

Density Bonus Limitations: The use of all density bonuses provided may not result in exceeding the maximum allowed number of units as outlined herein.

8.8.9 Procedure.

1. *Pre-Application.* Prior to the submittal of a special permit application, a "Concept Plan" shall be submitted to help guide the development of the site plan process for the proposed project build-out and individual elements thereof. Such Concept Plan should reflect the following:

- a. Overall building footprint;
- b. Areas which shall remain undeveloped; and
- c. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the Planning Board to ensure that the proposed project design will be consistent with the requirements of the SRCOD.

2. *Application.* An application for a special permit shall be submitted to the Andover Planning Board pursuant to the submission requirements and procedures contained in Section 9.4. and Section 9.5.3. of the Zoning Bylaw.

3. *Additional Submittals:*

- a. *Waivers.* At the request of the applicant in a narrative form, the Planning Board may waive certain dimensional, design and other requirements as stated herein (unless expressly prohibited), in the interests of design flexibility and overall project quality if it finds that the project is consistent with the overall purpose and objectives of the SRCOD, or if it finds that such waiver will allow the project to achieve a high quality design incorporating a desired mix of open space, affordability, a mix of uses, and/or physical character.
- b. A transportation plan, consisting of the following information:
 - (i) A plan showing the proposed parking, loading, traffic and pedestrian circulation within the site; access and egress points and other features related to traffic generated by the proposed use.
 - (ii) A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. The required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.
 - (iii) Proposed mitigation measures, if any, including vehicle trip reduction from the Project.

8.9 MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD).

[Added 5-12-2014 ATM, Art. 34]

8.9.1 Establishment.

The Medical Marijuana Overlay District ("MMOD") is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary ("RMD"), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are

silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

8.9.2 Purpose.

To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. § 1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

8.9.3 Definitions.

Where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. § 1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

Registered Marijuana Dispensary: Also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products ("MIPs"), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

8.9.4 Location.

- a. RMDs may be permitted in the MMOD but only pursuant to a Special Permit.
- b. RMDs may not be located within 500 feet of the following:
 - (1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college or university;
 - (2) Child Care Facility;
 - (3) Library;
 - (4) Playground;
 - (5) Public Park;
 - (6) Youth Center;
 - (7) Public swimming pool; or
 - (8) Similar facility in which minors commonly congregate.
- c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 8.9.4.b. to the nearest point of the property line of the proposed RMD.

8.9.5 Signage.

All signage shall conform to the requirements of the Andover Zoning Bylaw. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

8.9.6 Procedure.

The Planning Board shall be the Special Permit Granting Authority (SPGA) for an RMD special permit.

- a. Application: A Special Permit shall be submitted to the Andover Planning Board pursuant to the submission requirements and procedures contained in Section 9.4. and Section 9.5.3. of the Zoning Bylaw. In addition to the above requirements the applicant shall include 12 copies of the following:
1. A copy of its registration as an RMD from the Massachusetts Department of Public Health ("DPH");
 2. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
 3. Detailed site plans that include the following information:
 - a. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings and all other provisions of this Bylaw;
 - b. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
 - c. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
 - d. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 - e. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - f. Adequacy of water supply, surface and subsurface drainage and light.
 4. A description of the security measures, including employee security policies, approved by DPH for the RMD;
 5. A copy of the emergency procedures approved by DPH for the RMD;
 6. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
 7. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 8. A copy of proposed waste disposal procedures; and
 9. A description of any waivers from DPH regulations issued for the RMD.
- b. The SPGA shall refer copies of the application to the Building Division, Fire Department, Police Department, Board of Health, Conservation Commission and the Department of Public Works. These boards/departments/divisions shall review the application and shall submit their written recommendations to the Planning Board. Failure to make recommendations within 45 days of referral of the application shall be deemed lack of opposition.
- c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other Town boards and departments, the SPGA may act upon such a permit.

8.9.7 Special Permit Conditions on RMDs.

The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any Special Permit granted under this Bylaw:

- a. Hours of Operation.
- b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Building Inspector, Police and Fire Departments and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as

necessary to comply with any applicable state or federal laws and regulations.

- c. The permit holder shall file a copy of any cease and desist order, quarantine order, suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Building Inspector and SPGA within 48 hours of receipt by the RMD.
- d. The permit holder shall provide to the Building Inspector, Fire Chief and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- e. The Special Permit authorizing the establishment of an RMD shall be valid only for the specific registered entity to which the Special Permit was issued, and only for the site on which the RMD has been authorized by Special Permit. If the registration for the RMD has been revoked by the DPH or if the RMD registration is to be transferred to another controlling entity, or is to be relocated to a different site within the Medical Marijuana Overlay District, a new Special Permit shall be required.
- f. An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.
- g. The Special Permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
- h. The permit holder shall notify the Building Inspector, the Chiefs of the Police and Fire Departments and the SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
- i. The Police Department, Fire Department, Building Inspector and Board of Health shall have the right to inspect the subject premises to assure compliance with the special permit.

8.9.8 Exemption from RMD Special Permit Requirement.

RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A § 3 are not required to obtain a Special Permit but shall apply for Site Plan Approval pursuant to Section 9.5 of the Zoning Bylaw.

8.9.9 Prohibition Against Nuisances.

No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

8.9.10 Severability.

The provisions of this Bylaw are severable. If any provision, paragraph, sentence or clause of this Bylaw or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

8.10 TEMPORARY MORATORIUM ON MARIJUANA ESTABLISHMENTS, MARIJUANA RETAILERS AND OTHER SALE OR DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS WHICH ARE NOT INCLUDED IN THE DEFINITION OF MEDICAL MARIJUANA TREATMENT CENTERS.

[Added 5-8-2017 ATM, Art. 72]

8.10.1 Purpose.



TOWN OF LITTLETON
Town Clerk
PO Box 1305
Littleton, MA 01460
978-540-2401

CERTIFICATE OF VOTE
SPECIAL TOWN MEETING
ARTICLE 5
ZONING AMENDMENT: SENIOR RESIDENTIAL DEVELOPMENT
OCTOBER 30, 2017

ARTICLE 5

Zoning Amendment: Senior Residential Development

Ayes have it so declared a 2/3rds majority by the Town Moderator, the article passes the Town voted to amend the Zoning Bylaw as follows:

1. By deleting from §173-26.A, Principal Uses, the phrase "Over-55 Housing Development" and inserting, in place thereof, "Senior Residential Development," leaving the use designation for the Residence District unchanged, and changing the use designation from "N" to "P" for the Village Common District, Business District, Industrial A District and Industrial B District.
2. By deleting existing Article XXIII, Over 55 Housing Developments, and inserting, in place thereof, new Article XXIII, Senior Residential Development, to read as follows:

Article XXIII, Senior Residential Development

§173-145 Purpose.

The purpose of this article is to provide for a variety of housing types, settings, and residential services to meet the needs of people as they age and people with disabilities.

§173-146 Applicability.

- A. The Planning Board may grant a Special Permit for a Senior Residential Development in accordance with this Article XXIII on any tract of land meeting the following requirements:
 - (1) Two or more acres of land;
 - (2) Minimum of 100 feet of frontage on a public way; and
 - (3) Public water available at the street frontage.

- B. A Senior Residential Development is intended for people age 55 or over. As such, buildings and site improvements in a Senior Residential Development shall provide for visitability and universal design in accordance with the provisions of this article.

§173-147 Uses.

- A. In the Residence, Village Common, or Business District, the Planning Board may grant a special permit for a Senior Residential Development that includes one or any combination of the following uses:
- (1) Cottage dwellings
 - (2) Two-family dwellings
 - (3) Townhouse dwellings
 - (4) Independent living units
 - (5) Assisted living residence, with or without memory care units
 - (6) Continuing care retirement community, which shall include an assisted living residence and one or more of the other uses listed above, and may include a skilled nursing facility or physical rehabilitation facility with not more than 100 beds.
- B. In the Industrial District, the Planning Board may grant a special permit for a Senior Residential Development that includes one or any combination of the following uses:
- (1) Independent living units
 - (2) Assisted living residence, with or without memory care units
 - (3) Skilled nursing facility or physical rehabilitation facility with not more than 100 beds
- C. An assisted living residence or continuing care retirement community may include the following nonresidential uses primarily for the benefit of residents and their guests, provided that aggregate floor area for the nonresidential uses shall not exceed 10 percent of the total gross floor area of the buildings in the development. These uses shall be incidental and subordinate to the principal residential uses in the Senior Residential Development.
- (1) Retail, up to a maximum of 2,500 sq. ft.
 - (2) Personal services
 - (3) Medical office or clinic
 - (4) Community center or senior center
- D. A Senior Residential Development may also include the following uses:
- (1) Adult day care center

- (2) Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities
- (3) Conservation or agricultural uses

§173-148 Basic Requirements.

A. A Senior Residential Development shall comply with the following density regulations:

Use	Maximum Density	Maximum Building Height (Feet)
Cottage dwellings or two-family dwellings	4 units/acre	32
Townhouse dwellings	8 units/acre	32
Independent living units	20 units/acre	55
Assisted living residence	16 units/acre	40

- B. Maximum building coverage shall not exceed 35 percent of the lot area for new construction or expansion of existing structures.
- C. For cottage dwellings, two-family dwellings, and townhouses, the minimum setback shall be 30 feet from all property lines in the Residence District, and 15 feet in the Village Common or Business District, unless the Planning Board determines that a reduced setback is necessary to achieve the purposes of this section and will not have a detrimental impact on the neighborhood. The minimum setback from all property lines for an assisted living residence, independent living units, or any buildings in a continuing care retirement community shall be 50 feet in all districts, except that the minimum setback shall be 100 feet from the side or rear lot line, as applicable, abutting an existing single-family dwelling. Nothing in this section shall preclude the Planning Board from reducing or waiving minimum setback requirements between buildings or internal lots created within the Senior Residential Development.
- D. No dwelling unit in a Senior Residential Development shall have more than two bedrooms.
- E. The minimum common open space in the development shall be 30 percent of the lot area, and not more than 25 percent of the required minimum common open space shall consist of wetlands. The upland open space shall be contiguous and usable by residents of the development. A permanent conservation restriction running to or enforceable by the Town shall be recorded for the common open space area and shall include restrictions that the land be retained in perpetuity for conservation or passive recreation.
- F. Minimum off-street parking requirements shall be as follows:
 - (1) Cottage dwellings, two-family dwellings, or townhouses: 2 spaces per unit
 - (2) Independent living units: 1 space per unit
 - (3) Assisted living residence: 1 space per two units

- (4) Skilled nursing facility or physical rehabilitation center, if included in a continuing care retirement community: 1 space per two beds
- (5) Guest parking: 1 space per 3 units or 3 beds, as applicable

§173-149. Age-Appropriate Design.

- A. A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. While units do not have to be age restricted by deed to adults 55 years and over, they must be “visitable” and designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:
- B. Single-family, two-family, and townhouse units shall provide for:
 - (1) At least one zero-step entrance,
 - (2) Doorways with a 36-inch clear passage space,
 - (3) Master bedroom and an accessible en suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
 - (4) Master bedroom and en suite bathroom designed and equipped for seniors and people mobility impairments, and
 - (5) Indoor or structured parking.
- C. Independent living units and assisted living facilities shall comply with the accessibility requirements of the Massachusetts Architectural Access Board.
- D. Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access.

§173-150. Development Standards.

As part of the Planning Board’s special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance to the following minimum design standards.

- A. Architectural planning and design shall incorporate energy efficient design techniques, such as natural heating and cooling systems, use of sun and wind energy generation systems, and so forth.
- B. Structures located near the project property lines shall be designed and located in a manner that reflects consistency and compatibility with neighboring areas, and shall include appropriate use of building density, heights and design to minimize any intrusion on neighbors.

- C. Outdoor recreation or gathering areas, particularly those that may generate significant noise and/or light and glare, shall be located to minimize intrusion on neighboring properties.
- D. Structures shall be clustered to reduce site disturbance and protect open spaces, natural and environmentally sensitive areas.
- E. Building design shall avoid use of long, unbroken facades, and shall include use of balconies, offset walls, trellises and other design elements to provide visual interest.
- F. Building design, colors, and materials shall generally correspond to the natural setting of the project site, and to any prevalent design styles that may occur in neighborhoods within the general project area.
- G. The development shall be served by public water.

§173-151. Procedures.

- A. The special permit application, public hearing, and decision procedures shall be in accordance with this article, the Planning Board's Rules and Regulations, and Section 173-7 of this Zoning Bylaw.
- B. The Applicant shall submit a Senior Residential Development special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning Board's Rules and Regulations.

§173-152. Decision.

- A. The Planning Board may grant a Senior Residential Development special permit with any conditions, safeguards, and limitations it deems necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this article, only upon finding that:
 - (1) The proposed Senior Housing Development will not have adverse effects that outweigh its beneficial effects on either the neighborhood or the Town, in view of the characteristics of the site and of the proposal in relation to that site, considering each of the following:
 - (a) Social, economic, or community needs which are served by the proposal;
 - (b) Traffic flow and safety;
 - (c) Adequacy of utilities and other public services; and
 - (d) Qualities of the natural environment.
 - (2) The design of building form, building location, egress points, grading, and other elements of the project could not reasonably be altered to:
 - (a) Improve pedestrian, bicycle, or vehicular safety within the site and egressing from it;

- (b) Reduce the visual intrusion of parking areas viewed from public ways or abutting premises;
 - (c) Reduce the volume of cut or fill, or reduce erosion;
 - (d) Reduce the number of removed trees six inches trunk diameter and larger; and
 - (e) Provide safer and more efficient access to each structure for fire and service equipment.
- (3) The Senior Residential Development meets the purposes, requirements, and development standards of this Article XXIII, and
 - (4) The Senior Residential Development is consistent with the goals of the Littleton Master Plan.

3. By deleting from §173-2, Definitions, the existing definition of Dwelling, Single Family, and inserting the following new definitions in appropriate alphabetical order:

ASSISTED LIVING RESIDENCE -- An assisted living residence is a long-term senior residential facility that provides personal care support services such as meals, medication management, bathing, dressing, and transportation, principally for people age 55 years and over, and certified by the Massachusetts Office of Elder Affairs.

CONTINUING CARE RETIREMENT COMMUNITY -- A Senior Residential Development that provides a continuum of senior housing and care services principally for people age 55 years and over, operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for senior citizens. A CCRC shall include a variety of housing types and may also include semi-institutional facilities such as skilled nursing care or a rehabilitation facility.

INDEPENDENT LIVING UNITS -- Multifamily buildings in a Senior Residential Development that are designed and intended for occupancy principally by people age 55 years and over, with units that include some basic services such as meals, housekeeping, grounds maintenance, security, and common areas and common facilities for events and activities benefiting residents of the development.

DWELLING, SINGLE-FAMILY DETACHED -- A dwelling other than a mobile home, singly and apart from any other building, designed or intended or used exclusively as the residence of one family.

COTTAGE DWELLING: A detached one-family dwelling that does not exceed 1,800 sq. ft. of livable floor area (meaning the heated floor area of the building above finished grade, excluding non-dwelling areas such as attic space or a garage).

DWELLING, TOWNHOUSE OR SINGLE-FAMILY ATTACHED -- A residential building of at least three but not more than eight single-family dwelling units sharing at least one common or party or fire wall, and with each building having at least one floor at ground level with a separate entrance.

DWELLING, TWO-FAMILY -- A detached residential building designed or intended or used exclusively as the residence of two families. A two-family dwelling shall not include a detached single-family dwelling with an accessory apartment.

DWELLING, MULTIFAMILY -- A building designed or intended or used as the residence of three or more families, each occupying a separate dwelling unit and living independently of each other, and who may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.

A TRUE COPY:

ATTEST:  Diane Crory

December 4, 2017

RESIDENTIAL CLUSTER DEVELOPMENT

SECTION 9. RESIDENTIAL CLUSTER DEVELOPMENT

9.1 Purpose

In order to encourage the conservation of significant open space and the efficient use of land in harmony with its natural features, Residential Cluster Development allows, by special permit from the Planning Board, a pattern of land development alternate to the standard subdivision permitted in the residential districts. In order to encourage the grant of land for affordable housing purposes, the Residential Cluster Development includes Optional Special Provisions for Affordable Housing by special permit from the Board.

9.2 Standards

9.2.1 Minimum Tract Size. Residential Cluster Development shall be permitted upon a single tract, in one ownership with definite boundaries ascertainable from a recorded deed or recorded plan, which has an area of not less than five (5) times the minimum lot area of the zoning district within which it is situated (Residence C: Fifty thousand (50,000) square feet; Residence B: One hundred thousand (100,000) square feet; Residence A: Two hundred thousand (200,000) square feet; Residence AA: Four hundred thousand (400,000) square feet). Existing public and private ways need not constitute boundaries of the tract but the area within such ways shall not be counted in determining tract size.

9.2.2 Number of Lots. The number of lots permitted within any Residential Cluster Development shall be determined by the Planning Board to assure compliance with the purposes of this Section, and shall not exceed the basic density. The basic density of a Residential Cluster Development shall be the number of lots upon which a single family dwelling could be constructed in the residential district in which the Residential Cluster Development is located without regard to the Residential Cluster Development, and without waivers of the design standards set forth in the Subdivision Rules and Regulations of the Planning Board.

9.2.3 Dimensional Regulations. Except as provided in this Subsection, all dimensions shall comply with the provisions of Section 6, Table III, Dimensional Regulations. However, to protect the surrounding neighborhood, the Planning Board may require that buildings within the development be set back from some or all of the boundaries of the original development tract. The required setback from such boundaries shall be no more than fifty (50) feet.

9.2.3.1 Minimum lot area:

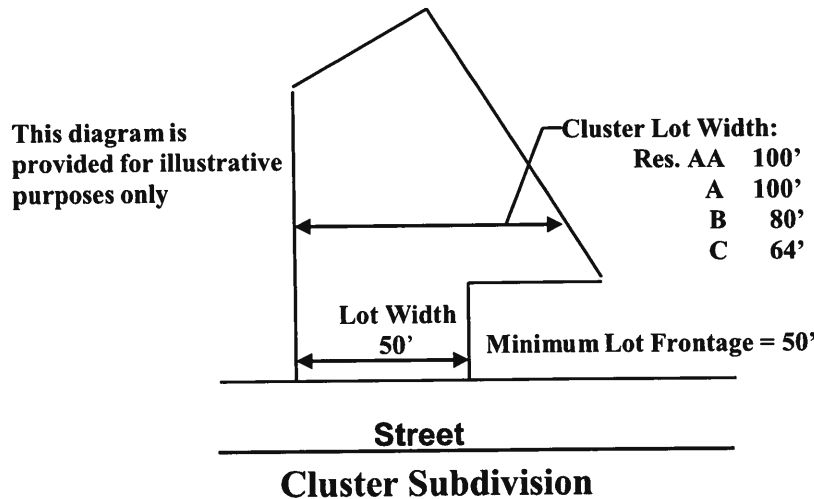
Residence AA	30,000 Sq. Ft.
Residence A	15,000 Sq. Ft.
Residence B	10,000 Sq. Ft.
Residence C	7,500 Sq. Ft.

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9.2.3.2 *Minimum lot frontage:* Each lot shall have a minimum frontage of fifty (50) feet.

9.2.3.3 *Minimum lot width:* Each lot shall have a lot width of not less than fifty (50) feet and the nearest point on the front wall of the dwelling shall be set back on its lot at least to a point where the lot width is a minimum of one hundred (100) feet in the Residence AA and A districts, eighty (80) feet in the Residence B district, and sixty-four (64) feet in the Residence C district.

9.2.3.4



9.2.4 *Open Space.* The area of the open space shall equal at least fifty (50) percent of the total area of the Residential Cluster Development tract. At least 50% of the area of required open space shall be upland (land that is not within the Flood Plain Conservancy District or freshwater wetlands as defined under the Town's Wetlands Bylaw and the Wetlands Protection Act).

9.2.4.1 The open space shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the Residential Cluster Development. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:

- (a) Land abutting the Concord, Assabet or Sudbury Rivers, their tributaries, Elm Brook, or ponds of significant public interest, which enhance or protect wetlands or flood plain, or which provide public access to the water body, or which enhance or provide significant scenic vistas or views, or which provide water-related recreational opportunities;
- (b) Land which currently is in agricultural use or land which is suitable in size, location and soil characteristics for agricultural use;
- (c) Land which provides a significant wildlife habitat or which is a unique natural area;
- (d) Land which provides recharge to Concord's current or future municipal wells and highly favored aquifer areas;
- (e) Land which is to be developed for active recreational use including playing fields, boat launching areas, playgrounds, and neighborhood parks;

RESIDENTIAL CLUSTER DEVELOPMENT

- (f) Land which preserves existing trail networks or land on which new trails will be developed as part of the cluster for integration into an existing trail network;
- (g) Land which enhances scenic roadside views;
- (h) Land providing desirable public access to existing Town or State recreational or conservation land.

9.2.4.2 Provision shall be made so that the open space shall be readily accessible to the owners and occupants of the lots in the Residential Cluster Development, and owned by:

- (a) a membership corporation, trust or association whose members are all the owners and occupants of the lots;
- (b) by the Town; or
- (c) otherwise as the Planning Board may direct.

9.2.4.3 In all cases, a perpetual restriction of the type described in G.L. c. 184, sec. 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the open space, as the Planning Board may deem appropriate.

9.2.5 *Limitation of Subdivision.* No lot shown on a plan for which a permit is granted under this Section may be further subdivided, and a notation to this effect shall be shown on the plan.

9.3 Procedure for Approval

9.3.1 *Application.* Any person who desires a special permit for a Residential Cluster Development shall submit an application in writing in such form as the Planning Board may require which shall include the following:

9.3.1.1 Plans meeting to the extent applicable the requirements set forth for a definitive plan in the Subdivision Rules and Regulations.

9.3.1.2 Proposed deed restrictions; and

9.3.1.3 Such additional information as the Planning Board may require.

9.3.2 *Natural Resources Commission Report and Recommendations.* The Natural Resources Commission shall review the proposed Residential Cluster Development plans and shall submit in writing to the Planning Board its report and recommendations upon the degree to

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which the Residential Cluster Development and proposed open space enhances the protection of environmental qualities including at least:

9.3.2.1 An evaluation and opinion upon the degree to which the development itself impinges upon critical environmental areas.

9.3.2.2 An evaluation and opinion upon the degree to which the common open space protects critical environmental areas and provides a valuable outdoor recreation resource.

9.3.2.3 An evaluation and opinion upon the degree to which any land intended to be conveyed to, or restricted for the benefit of, the Town:

(a) Enhances the protection of critical environmental areas, unique natural features, scenic vistas or potential or existing farmland; or

(b) Provides a valuable addition to the open space resources of the Town.

9.3.3 *Special Permit.* A special permit shall be granted under this Section only if the Planning Board finds:

9.3.3.1 The plan submitted is in harmony with the general purpose and intent of this Section;

9.3.3.2 The proposed Residential Cluster Development is designed in such a manner to ensure a suitable development for the neighborhood, adequate buffers for adjoining tracts, and suitable open space;

9.3.3.3 The plan submitted conforms with the standards for minimum tract size, number of lots, lot dimensions, frontage, and open space area and characteristics as set forth herein; and

9.3.3.4 The Residential Cluster Development is designed in such a manner to make it sufficiently advantageous to the Town to depart from the requirements of this Bylaw otherwise applicable to the residential district(s) in which it is located.

9.3.4 *Conditions.* If a special permit is granted, the Planning Board shall impose as a condition that the open space shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restrictive covenant or, if there is no covenant, prior to the Building Inspector's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, or otherwise as the Planning Board may direct.

9.4 Optional Special Provisions for Affordable Housing by the Board

9.4.1 *Approval by the Board.* Where the proposed Residential Cluster Development provides for the granting of land for affordable housing purposes, the Residential Cluster

RESIDENTIAL CLUSTER DEVELOPMENT

Development special permit shall be granted by the Board and the Board may authorize limited exceptions to the number of lots permitted and the open space requirements.

9.4.2 Exceptions for Granting of Land for Affordable Housing Purposes. The Board may increase the basic density permitted within a Residential Cluster Development and may reduce the required open space area provided that a lot or lots within the development be donated to the Town for affordable housing purposes. For each lot so donated, the Board may increase the basic density by two (2) lots and may reduce the required open space area. In no case shall the total number of lots be increased by more than forty (40) percent, and in no case shall the open space area be reduced to less than forty (40) percent of the area of the development tract.

9.4.3 Procedure for Approval of Optional Special Provisions by the Board.

9.4.3.1 Application. Any person who desires a special permit for a Residential Cluster Development with Optional Special Provisions for Affordable Housing shall submit an application in writing in such form as the Board may require.

9.4.3.2 Planning Board Report and Recommendations. The Planning Board shall review the proposed Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations upon the technical quality of the proposed development, and at least the following:

- (a) General descriptions of the natural terrain of the cluster tract and surrounding areas, and of the neighborhood in which the tract is situated.
- (b) A review of the proposed development, including the design and use of the open space and of pedestrian and vehicular circulation.
- (c) An evaluation and opinion upon the degree to which any land intended to be conveyed to, or restricted as open space for the benefit of the Town: provides or will in the future provide an addition to areas of open space between developed sections of the Town; makes available land desirable for other public use; and conforms to the Town's long-range land use plan.
- (d) An evaluation and opinion upon the degree to which any land intended to be conveyed to the Town for affordable housing conforms to the Town's housing objectives and policy.
- (e) Its opinion as to whether the proposed tract size, site design, development layout, number and location of lots constitute a suitable development for the neighborhood within which it is located.
- (f) A statement that the developer's plans comply with the design standards of the Subdivision Rules and Regulations of the Planning Board, or wherever such plans do not comply, a statement of the respects in which they do not so comply.
- (g) Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions, or requirements to be imposed as a condition of granting the special permit.

CONCORD ZONING

9.4.3.3 *Natural Resources Commission Report and Recommendations.* The Natural Resources Commission shall review the Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations as provided in Section 9.3.2 above.

9.4.3.4 *Special Permit by Board for Optional Provisions for Affordable Housing.* A special permit shall be issued under this Section for a Residential Cluster Development with Optional Provisions for Affordable Housing only if the Board shall find the development conforms with Section 9.3.3 and also finds the proposed Residential Cluster Development provides significant public benefits through the granting of land for affordable housing purposes.

9.4.3.5 *Conditions.* If a special permit is granted, the Board shall impose as conditions thereof the following:

- (a) The open space shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restrictive covenant or, if there is no covenant, prior to the Building Inspector's issuance of the building permit for any lot. A petitioner shall provide satisfactory assurance of said conveyance and recording in the forms of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct;
- (b) All lots to be conveyed to the Town for affordable housing purposes shall be conveyed, free of any mortgage interest or security interest prior to the Planning Board's release of any lots from the subdivision restrictive covenant, or if there is no covenant, prior to the Building Inspector's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct.

9.5 Amendments Without Public Hearing

Following the granting of a special permit under this Section, by either the Planning Board or the Board, the Planning Board may, upon application and for good cause shown, without public hearing, amend the plan solely to make changes in lot lines shown on the plan provided, however, that no such amendment shall:

- 9.5.1** Grant any reduction in the size or change in location of the open space as provided in the permit;
- 9.5.2** Grant any change in the layout of the ways as provided in the permit;
- 9.5.3** Increase the number of lots as provided in the permit; or
- 9.5.4** Decrease the dimensional requirements of any lot below the minima permitted by this Bylaw.

SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

8.1 CONVERSION OF ONE-FAMILY DWELLING

8.1.1 Purposes. The purposes of this section are as follows:

- 8.1.1.1 to preserve culturally, historically, or architecturally significant residential structures of value to the community;
- 8.1.1.2 to encourage the preservation of community character through the maintenance of existing residential properties and their surrounding landscapes;
- 8.1.1.3 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.

8.1.2 Special Permit Required. Upon the grant of a special permit by the Board of Appeals, the conversion and/or use of a one-family dwelling to a dwelling for not more than two (2) families may be authorized, provided that such one-family dwelling was constructed on or before December 31, 1938, and provided that the exterior character of the property remains consistent with that of a single-family dwelling, and provided that no accessory apartment is in existence on the same property pursuant to Section 8.5 of this Bylaw.

8.1.3 Alterations, Relocations, or Additions. The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.

8.1.4 All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed. The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town.

8.2 TWO-FAMILY DWELLINGS

Upon the grant of a special permit by the Board of Appeals, a dwelling for occupancy by more than one (1) family, if located on a lot having an area larger than the minimum hereinafter required for the construction of a one-family dwelling in the same district by an additional four thousand (4,000) square feet for each family in excess of one accommodated thereon may be authorized; provided that said dwelling unit shall be limited to occupancy by no more than two (2) families.

8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT

8.3.1 Purposes. The purposes of Open Space Residential Development (OSRD) are as follows:

- 8.3.1.1 to conserve natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community;
- 8.3.1.2 to lessen the amount of disturbance to soils, topography and vegetation on the site, and to provide roads and infrastructure in more efficient and less intrusive ways than with conventional subdivisions;
- 8.3.1.3 to provide the opportunity for more flexibility and imagination in the design of residential developments;
- 8.3.1.4 to assure that the 4-step Design Process (as defined in 8.3.12) guides the design of an OSRD by identifying the resources and amenities to be protected, prior to laying out buildings, roadways, and lots;
- 8.3.1.5 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.
- 8.3.1.6 to encourage senior housing development, affordable housing development, historic preservation, and greater conservation of open space.
- 8.3.2 **Definitions.** For the purposes of this Section, the following terms are defined:
- 8.3.2.1 **Single-family Attached Dwelling Units.** Single-family Attached Dwelling Units shall mean buildings where two (2) or more individual single-family dwelling units are physically connected to like dwellings for at least a portion of one or more of their exterior walls. Single-family Attached Dwelling Units may include townhouses in traditional row or other configuration or shape; or individual single-family dwelling units meeting at a common lot line. Single-family Attached Dwelling Units shall not include any building where any dwelling unit is located above or below any other dwelling unit.
- 8.3.2.2 **Cluster.** Cluster shall mean a distinct area or “pod” of housing within an OSRD development, separated physically and visually from other clusters of housing by open space and/or other facilities or common areas.
- 8.3.2.3 **Tract.** Tract shall mean the boundaries and area of the original parcel of land proposed for the OSRD, prior to further division.
- 8.3.2.4 **Age-Restricted Dwelling Units.** Age-Restricted Dwelling Units shall mean dwelling units where occupancy shall be restricted in perpetuity to households where at least one person has reached fifty-five (55) years of age.

- 8.3.3 **Eligible Districts.** An OSRD shall be permitted only within the Single Residence B (SRB), Single Residence C (SRC), and Single Residence E (SRE) districts, pursuant to the requirements of this Section.
- 8.3.4 **Minimum Tract Requirements.** The minimum tract of land for an OSRD shall consist of one parcel or two or more contiguous parcels, with a minimum area of 120,000 square feet in SRB, 200,000 square feet in SRC, and 400,000 square feet in SRE, prior to further division. The Planning Board may make a finding that two or more parcels separated by a road or other infrastructural element are effectively contiguous if such is consistent with the purposes of this Section.
- 8.3.5 **Uses Allowed As of Right.** The following uses are allowed as of right in an OSRD:
- 8.3.5.1 Detached single-family Dwelling Units.
- 8.3.6 **Special Permit Uses.** The following uses are only allowed by OSRD Special Permit in an OSRD:
- 8.3.6.1 Single-family Attached Dwelling Units;
8.3.6.2 Bonus Dwelling Units.
- 8.3.7 **Facilities and Amenities.** The following facilities and amenities are allowed in an OSRD:
- 8.3.7.1 Common open space areas for active or passive recreation, preservation of habitat and natural resources, maintenance of scenic amenities, buffering between uses, both within the site and from abutting properties, connecting greenways to abutting protected open space, lawn and landscaped areas within the site, pedestrian and bicycle trails, and similar features;
- 8.3.7.2 Recreational amenities primarily for residents of the OSRD, including but not limited to: a community center, swimming pool, beach, tennis court, or children's playground;
- 8.3.7.3 Accessory uses necessary to the operation and maintenance of the development, including but not limited to detached structures for parking, sheds for equipment and tool storage, structures housing heating/ventilating and air conditioning, pumping stations or similar facilities, and energy generating facilities allowed by this bylaw.
- 8.3.8 **Planning Board Approvals Required.**
- 8.3.8.1 **Subdivision Approval Required.** When applicable under M.G.L. c. 41, § 81K through § 81GG and the Westwood Rules and Regulations Governing the Subdivision of Land, an OSRD shall require a Definitive Subdivision

Plan approval. No building permit shall be issued for any new structure within an OSRD subdivision prior to the recording of an endorsed Definitive Subdivision Plan with the Norfolk Registry of Deeds.

8.3.8.2 **Site Plan Approval Required.** An OSRD Project shall be subject to Environmental Impact and Design Review (EIDR) approval pursuant to Section 7.3 of this bylaw, and no building permit shall be issued for any structure within the OSRD prior to the recording of the OSRD-EIDR Approval in the office of the town clerk.

8.3.8.3 **Uses Requiring Special Permit.** An OSRD containing one or more structures of Single-family Attached Dwelling Units, and/or one or more Bonus Dwelling Units, shall require an OSRD Special Permit issued by the Planning Board. The OSRD Project shall be subject to EIDR approval pursuant to Section 7.3 of this Bylaw, which shall be consolidated into a mandatory site plan approval component of the OSRD Special Permit, and no separate EIDR Approval shall be required. No building permit shall be issued for any structure within the OSRD prior to the recording of the OSRD Special Permit in the office of the town clerk.

8.3.9 Density and Dimensional Requirements.

8.3.9.1 **Base Density from Underlying District.** The base number of dwelling units allowed in an OSRD shall be determined by the minimum lot size in the underlying district, SRB, SRC, and SRE, except as provided in Section 8.3.9.4 herein in regard to Bonus Dwelling Units.

8.3.9.2 **Yield Calculation.** The maximum base number of dwelling units to which an OSRD is entitled shall be determined by the Planning Board following the submission of a Yield Calculation, as set forth below. The Yield Calculation shall be submitted as part of the OSRD-EIDR or OSRD Special Permit application, and shall be submitted on a preliminary basis as part of a preliminary review meeting, as provided for in Section 8.3.14 and Section 8.3.15 herein.

The Yield Calculation is determined by the following steps:

Step One: Subtract from the total original area of the development tract 100% of all wetlands and all such other land as may be determined by the Board to be unsuitable for development, including but not limited to, significant rock outcroppings and areas with slopes in excess of 15%.

Step Two: Reduce that result by 10%, as an infrastructure factor.

Step Three: Divide that result by the minimum lot size required in the underlying district.

Step Four: For results less than 2, eliminate any fractional part, and for results greater than 2, round up to the next whole number for fractions of .5 or greater, and round down to the previous whole number for fractions less than .5.

Step Five: The result shall then be adjusted by the addition of the following number of units, to attain general parity with that of a conventional subdivision:

<u>Step Four Result</u>	<u>Added Units</u>
1 to 3 units	0
4 to 8 units	1
9 to 13 units	2
14 to 18 units	3
Over 18 units	4

Yield: The result is the maximum base number of dwelling units allowed, provided that all other conditions required in Section 8.3 are met.

8.3.9.3 OSRD Dimensional Requirements. The following dimensional requirements shall apply within an OSRD, in place of the requirements set forth in Section 5.2, Table of Dimensional Requirements:

Minimum Dimensional Requirements in OSRD		
	Detached Single-family Dwelling Units	Single-family Attached Dwelling Units
8.3.9.3.1 Lot Size	10,000 sq. ft.	7500 sq. ft.
8.3.9.3.2 Lot Frontage on existing street	100% of lot frontage requirement in underlying district	100% of lot frontage requirement in underlying district
8.3.9.3.3 Lot Frontage on an interior drive	75'	75'
8.3.9.3.4 Perimeter Tract Setback	30'	30'
8.3.9.3.5 Front Setback on existing street	100% of front setback in underlying district	100% of front setback in underlying district
8.3.9.3.6 Front Setback on an	20'	10'

interior drive		
8.3.9.3.7 Side setback for principal structure	10'	10'
8.3.9.3.8 Rear setback for principal structure	10'	10'
8.3.9.3.9 Side and rear setbacks for accessory structures	5'	5'

8.3.9.3.10 **Lot Frontage and Lot Width Reduction.** The Planning Board may reduce the minimum frontage and lot width requirements if dwelling unit dimensions, location on curved frontage or a street terminus, or other conditions justify doing so, provided the reduction is consistent with the intent of this Section. Reduced frontage lots shall be located on streets and interior site drives fronting within the interior of the OSRD tract, unless the Planning Board finds that location on a way exterior to the tract is not detrimental to the neighborhood.

8.3.9.3.11 **Front Setback in Multiple Districts.** In cases where an OSRD lies in more than one eligible district, if the tract lies 2/3 or more in one district, the front setback for that district shall apply in total. In cases where the OSRD lies less than 2/3 in one district, the frontage shall be the average of the required minimum front setbacks in the two districts.

8.3.9.3.12 **Side Yard Setback Reduction.** This setback requirement shall apply to Detached Single-family Dwelling Units and end units of structures containing Single-family Attached Dwelling Units. The Planning Board may reduce the side yard requirement if dwelling unit dimensions or other conditions justify doing so, provided the reduction is consistent with the intent of this Section.

8.3.9.3.13 More than one principal structure may be allowed on one lot.

8.3.9.4 **Bonus Dwelling Units Allowed by Special Permit.** The Planning Board may grant one or more Bonus Dwelling Units beyond the maximum base number of dwelling units allowed pursuant to the Yield Calculation in Section 8.3.9.2, using one or more of the following options:

8.3.9.4.1 **Age-Restricted Housing.** Where all dwelling units within an OSRD are restricted to meet the definition of Age-

Restricted Dwelling Units in Section 8.3.2.4, then a bonus equal to three times (3) the maximum base number of dwelling units may be allowed. Where all dwelling units within an OSRD cluster are restricted to meet the definition of Age-Restricted Dwelling Units in Section 8.3.2.4, then a bonus equal to three times (3) the number of dwelling units in that cluster may be allowed. All Bonus Dwelling Units allowed under this provision must be Age-Restricted Dwelling Units.

- 8.3.9.4.2 **Affordable Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Affordable Housing in Section 2.0, over and above the minimum number of affordable dwelling units required pursuant to the Affordability Requirements in Section 8.3.11, a bonus equal to two (2) additional market rate dwelling units may be allowed.
- 8.3.9.4.3 **Moderate Income Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Moderate Income Housing in Section 2.0, a bonus equal to one (1) additional market rate dwelling unit may be allowed.
- 8.3.9.4.4 **Historic Preservation.** Where an OSRD preserves a historically significant building or historically significant major structure, including a barn or other accessory structure, a bonus equal to one (1) additional dwelling unit may be allowed. The determination of historical significance and the suitability of [preservation initiatives shall be made by the Planning Board, which may choose to consult with the Westwood Historical Commission.
- 8.3.9.4.5 **Additional Open Space.** For each additional five (5) percent of the tract protected as common open space above the minimum required below in Section 8.3.10.1, a bonus equal to ten (10) percent of the maximum base number of dwelling units may be allowed. Where the calculation of Bonus Dwelling Units results in a fraction, for results less than 2, eliminate any fractional part, and for results greater than 2, round up to the next whole number for fractions of .5 or greater, and round down to the previous whole number for fractions less than .5.
- 8.3.9.4.6 **Aggregate Yield.** The Aggregate Yield for an OSRD shall be based on any combination of the bonuses listed above,

provided that all other conditions required in Section 8.3 are met. Except as permitted in Section 8.3.9.4.1, the total number of Bonus Dwelling Units for the OSRD shall not exceed, in the aggregate, fifty (50) percent of the maximum base number of dwelling units allowed pursuant to the Yield Calculation in Section 8.3.9.2, except in cases where all Bonus Dwelling Units exceeding fifty (50) percent of the maximum base number of dwelling units are Age-Restricted Dwelling Units permitted pursuant to Section 8.3.9.4.1.

8.3.9.4.7 **Fiscal Impact.** In all cases, the maximum allowable number of Bonus Dwelling Units shall be determined by the Board, in its sole discretion, following the Board's acceptance of a fiscal impact report demonstrating that said units will have no significant negative fiscal impact on the town.

8.3.10 Common Open Space Requirements.

8.3.10.1 **Minimum Open Space Requirement.** In the SRC and SRE districts, the OSRD shall protect in perpetuity at least fifty (50) percent of the total tract as common open space, or sixty (60) percent where the OSRD must employ shared or individual septic systems or other on-site treatment, because no public sanitary sewer collection system is available. In the SRB district, the OSRD shall protect in perpetuity at least sixty (60) percent of the total tract as common open space. The common open space shall not be further divided or subdivided, and a restriction to such effect shall be noted on the EIDR plans recorded at the Registry of Deeds.

8.3.10.2 **Limitations on Composition of Open Space.** In no case shall more than seventy-five (75) percent of the land area used to satisfy the minimum open space requirement consist of wetlands or other non-buildable land area.

8.3.10.3 **OSRD Open Space Standards.** The landscape shall be preserved in its natural state. When necessary for utilities, roadways and similar purposes which cannot be avoided, or where desirable improvements to the landscape will be made, disturbances shall be minimized, by keeping to a minimum the removal of tree and forest vegetation, the excavation and removal of soil and the major alteration of existing topography. The massing and shape of the open space shall be designed to maximize its functionality for wildlife habitat and conservation, passive recreation, agriculture, horticulture, forestry, and equestrian use. Cultural and

historical resources and scenic amenities may also be incorporated into the open space.

The open space shall be contiguous to the maximum extent possible. Connectivity between open space areas within the development tract, and to open space areas external to it, shall be incorporated wherever possible. No open space area shall be less than 50 feet in its smallest dimension. Open space traversed by a roadway may be considered by the Planning Board to be connected. Not more than five (5) percent of the open space areas may be covered by pavement or paved roads and allowable accessory structures.

Structures located within the common open space shall only include those structures used to support proper use of the open space, including but not limited to equipment storage, temporary shelters, sanitary facilities, and trail information stations. New or existing trails or walkways shall be constructed or retained, as applicable, for the purpose of providing reasonable access to the open space. No cluster, at its nearest point, shall lie farther than three-hundred (300) feet from the closest point of the open space, with the exception of minor adjustments allowed by the Planning Board where compliance with this standard is impractical. Underground utilities, stormwater management facilities, and shared wastewater treatment systems serving the site may be located within the common open space. Surface collection systems such as retention and detention ponds shall not count toward the minimum common open space requirement. Existing or proposed utility easements shall not be counted as common open space unless allowed by the Planning Board.

8.3.10.4 Ownership, Protection and Maintenance of the Open Space.

8.3.10.4.1 Conveyance. The common open space may be conveyed to any of the following entities:

- 1) The Town of Westwood or its Conservation Commission.
- 2) A non-profit organization whose primary purpose is to conserve and maintain open space.
- 3) A corporation or trust owned jointly or in common by the owners residing in the OSRD. When the open space is conveyed to said corporation or trust, maintenance of the open space shall be guaranteed in perpetuity. The corporation or trust shall provide for mandatory assessments of each lot and unit for maintenance purposes. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions to affect these requirements. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

8.3.10.4.2 **Conservation Restrictions.** When common open space is not conveyed to the Town or to its Conservation Commission, a conservation restriction or agricultural or forest preservation restriction enforceable by the Westwood Conservation Commission or other board under M.G.L. c. 184, § 31, is required, in compliance with the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources, or their successor agencies. Said restriction shall be recorded in the manner provided by statute. The Board of Selectmen is hereby authorized to accept such restrictions if the Conservation Commission declines to do so. The common open space shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth in this Section, and shall be maintained in a manner which will ensure its suitability for its intended purposes.

8.3.10.4.3 **Conservation Covenants.** Any common open space that does not qualify for inclusion in a conservation restriction or agricultural preservation restriction, or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts, shall be subject to a restrictive covenant, which shall be approved by the Planning Board and Board of Selectmen, and which shall be duly recorded at the Registry of Deeds and subject to the Extension of Period provisions in Sections 27 and 28 of M.G.L. chapter 184. The Town of Westwood shall retain the right to enforce such covenants.

8.3.10.4.4 **Special Maintenance Provisions.** The Town shall be granted an easement over the common open space in all cases, to ensure its perpetual maintenance as open space consistent with the purposes of this Section. Such easement shall provide that in the event the corporation, trust, or other owner fails to maintain the open space in good functional condition, the Town may, after notice to the owners and a public hearing, enter the common open space to provide reasonable maintenance, in order to prevent or abate a nuisance. The cost of such maintenance shall be assessed against the properties within the development and/or to the owner of the common open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

8.3.11 **Affordability Requirements.** Where any project authorized under a OSRD Special Permit will result in the development of at least eight (8) new dwelling units, the

minimum number of dwelling units specified in the table below shall be restricted to meet the definition of Affordable Housing in Section 2.0 of this Bylaw and in the Rules and Regulations. All such affordable dwelling units shall be contained within the OSRD unless the Planning Board determines a proposed alternative to be at least equivalent in serving the Town's housing needs after consultation with the Westwood Housing Partnership and the Westwood Housing Authority. The affordable dwelling units authorized under the provisions of this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or affordable dwelling units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. All said dwelling units shall count toward Westwood's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended and all affordable dwelling units shall remain affordable in perpetuity.

<u>Total Number of Dwelling Units</u>	<u>Minimum Number of Affordable Dwelling Units</u>
1 to 7 units	0
8 to 9 units	1
10 to 15 units	2
16 to 22 units	3
23 to 26 units	4
27 or more units	15% of the total number of dwelling units, rounded up to the next whole number

8.3.12 OSRD 4-step Design Process. The application shall contain graphic and written material sufficient to demonstrate to the Planning Board that the four-step design process set forth below was performed by a registered landscape architect, or a team which includes a registered landscape architect, in establishing the layout of open space, housing units and clusters, streets, and lots.

Step One: Identification of Conservation Areas. The first step in the design process shall be to identify, analyze, and incorporate in the plans the natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community that exist on the OSRD tract and immediate vicinity. In addition, the OSRD concept design shall be considered in the larger context of neighborhood character, transportation and transit services, district land use patterns, cultural issues and other factors that might affect, or be affected by, the OSRD. The outcome of Step One is both to identify likely open space protection areas, and to identify in a preliminary way the potentially developable parts of the OSRD tract.

6.4.7 Exemption and Modification.

The Planning Board shall not exempt the applicant from any provision of this Zoning Bylaw not specifically ruled upon by said Board or specifically set forth as excepted in this particular case by a provision herein. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use of any building, structure or lot or change any required limitations or special conditions imposed by said Board in authorizing a special permit without appealing to said Board for a new special permit, which said Board shall have complete authority to deny, approve or modify.

6.5 CHILDCARE FACILITIES

In Residence A and Residence B, the footprint of a building which is principally used as a child care facility shall not exceed 2,500 square feet. As used in this paragraph, the term "footprint" shall mean the land area occupied by a building, at the surface of the ground, excluding open porches. As used in this paragraph, the term "child care facility" shall mean a day care center or school age child care program as those terms are defined in Massachusetts General Laws Chapter 28A, Section 9. The provisions of this paragraph shall not apply to child care facilities which are located in buildings owned by non profit organizations and used in whole or in part by such non profit organizations for their non profit purposes.

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 OPEN SPACE RESIDENTIAL DEVELOPMENT

7.1.1 Purpose.

The purpose of Open Space Residential Development (OSRD) is to provide an acceptable alternative design to the development in residential districts located within the town. OSRD will serve the public by:

1. Encouraging better overall site planning;
2. Preserving the natural and scenic amenities of the property;
3. Providing open-space areas for both active and passive recreations;
4. Providing more efficient natural drainage systems;
5. Providing natural aquifer recharge systems;
6. Providing visual screening between the new construction and existing roads by means of trees and other natural vegetation;

7.1.2 Applicability.

All projects involving the construction of single family residential units subject to regulation and approval by the Planning Board pursuant to an applicable section of the Subdivision Control Law, G.L. c. 41, ss. 81K through 81GG and meeting the minimum requirements of this section may seek approval through the provisions of this section.

1. All projects involving the construction of single family detached dwellings subject to regulation and approval by the Planning Board pursuant to the Subdivision Control Law and involving the subdivision of ten (10) acres or more of land and/or the construction of one thousand (1,000) feet or more of roadway and located in the RA District shall submit an application for Open Space Residential Development and conform to the requirements of this section, unless waived by vote of the Planning Board in consideration of the submittal of a special permit application for Flexible Development pursuant to this Bylaw. Discontinuance of this alternative application shall render all related approvals null and void. Dimensional controls shall be those provided in the Table of Dimensional and Density Regulations, except as provided herein:

Minimum Lot Area	20,000 square feet
Minimum Frontage	50 feet
Average Total Aggregate Frontage	100 feet
Minimum Lot Width at the Nearest Point on the Front Wall of the Dwelling	100 feet

7.1.3 Planning Board Determination.

The Planning Board shall make a determination for all projects involving the subdivision of ten (10) acres or more of roadway and/or the construction of one thousand (1,000) feet or more of roadway and located in the RA District following a review of materials presented pursuant to this section. The Planning Board may, in turn, require the application of this section generally or may waive the application to allow conventional subdivision.

7.1.4 Minimum Dimensional Requirements.

Open space residential development, as defined above, shall be allowed on parcels of land having a minimum contiguous area of ten (10) acres and which are located within a residential district. These proposals shall be permitted only within a subdivision as defined in Chapter 41 of the Massachusetts General Laws.

The total number of residential lots allowable within an Open Space Residential Development shall not exceed the number of lots allowed in the zoning district in which the property is located (i.e. conventional subdivision). The burden of proof shall be upon the applicant to submit such evidence as necessary to support the calculation of the allowable number of lots, based upon accepted standards of soil testing for sewage disposal systems on the individual lots, limitations due to

wetlands, flood plains and steep slopes, and requirements of the Planning Board's "Rules and Regulations Governing Subdivisions." If an Open Space Residential Development is situated in more than one zoning district, once the total number of residential lots allowed within the development is established, as aforesaid, the location of the OSRD lots shall be allowed without regard to the location of such multiple zoning districts. Dimensional controls shall be provided in the Table of Dimensional and Density Regulations, except as provided herein:

Minimum Lot Area	20,000 square feet
Minimum Frontage	50 feet
Average Total Aggregate Frontage	100 feet
Minimum Lot Width at the Nearest Point on the Front Wall of the Dwelling	100 feet

7.1.5 Minimum Yard Requirements.

The minimum yard requirements shall be those as set forth in the Table of Dimensional Regulations¹ provided, however, that with the approval of the Planning Board pursuant to the definitive subdivision plan approval process, the yard requirements may be reduced or increased as shown by dashed lines identified as "building location boundaries" on each such affected lot on the definitive subdivision plan to be recorded at the Registry of Deeds, except that the front yard shall not be less than fifteen (15) feet.

7.1.6 Common Land.

The common land shall contain no less than ten thousand (10,000) square feet of dry land (non-wet land) for each building lot or dwelling unit, and for each twenty-five (25) lots or twenty-five (25) dwelling units, or fraction thereof, one (1) acre of the common land shall be level, dry land suitable for baseball or other similar recreational purposes. In developments of twenty-five (25) lots or more, said land must not be designated open space, excepting, however, that in an Industrial A District, the total common land shall not be less than thirty percent (30%) of the parcel which is the subject of the subdivision. All land within one hundred (100) feet of any building lot shown on an open-space residential development plan shall be designated as open space.

1. Common land other than designated open space may contain accessory structures for educational, recreational, cultural or community utility service for the development.
2. All common land must have access to a roadway within the subdivision. The minimum width shall be twenty-five (25) feet.

7.1.7 Other Design Requirements.

1. Open Space Residential Developments shall be served by a water system approved by the Planning Board under the special permit process with the recommendation of the Conservation Commission and the Board of Health of

the Town of Westford. This provision shall not apply in an Industrial A District.

2. Natural surface drainage channels shall be either incorporated into the overall design or preserved as part of the common land. The developed areas shall be served by storm sewers.

7.1.8 Legal Requirements for Common Land Ownership and Maintenance.

The common land and other facilities which may be held in common shall be conveyed to the mandatory homes' association, whose membership includes the owners of all lots or units contained in the tract, or if the development is a cooperative, then the owners of the shares in the cooperative association.

1. The developer shall include in the deed to the owners of individual lots beneficial rights in said common land and shall grant a conservation restriction to the Town of Westford over such land pursuant to G.L. c. 184, ss. 31-33, to ensure that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by G.L. c. 184, s. 33. In addition, the developer shall be responsible for the maintenance of the common land until such time as the homes' association is capable of assuming said responsibility or, in the case of a trust, for the benefit of the tenant upon the execution of the trust.
2. In order to ensure that the homeowners' association will properly maintain the land deeded to it under this section, the developer shall prepare a declaration of covenants and restrictions, which shall at a minimum provide the following:
 - a. Mandatory membership in an established homes' association as a requirement of residence or ownership of any lot in the tract.
 - b. Provisions for maintenance and tax assessment of all lots in order to ensure that the common land is maintained in a condition suitable for the uses approved by the homes' association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homeowners' association or the owner of any lot.
 - c. Provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the common land will not terminate by operation of law.
 - d. This declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and then shall be recorded with the Middlesex Registry of Deeds. A copy of said declaration or trust shall also be filed with the Town Clerk. Prior to the Building Commissioner's issuance of a building permit for any lot, the developer shall provide satisfactory assurance of the conveyance and recording as required above,

in the form of copies of the recorded instruments bearing the recording stamps.

3. As an alternative to the procedures outlined in paragraphs 7.1.8.1 and 7.1.8.2, with the vote of the Planning Board, some or all of the common land open space may be conveyed to the Town of Westford to be administered by the Conservation Commission.

7.1.9 Special Regulations.

In an Industrial A District, or in an Industrial C District, notwithstanding anything above to the contrary or act in relation thereto:

1. A developer may convey all of the common land designated on the plan to the Town of Westford, to be held and used for purposes set forth in this section, without the necessity for compliance with other provisions or paragraph E above stated. If the Town fails to vote to accept all of said common land within one (1) year from the date of delivery of the deed, the developer shall place on such land not accepted, a conservation restriction to the Town of Westford over such land pursuant to G.L. c. 184, ss. 31-33, to ensure that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by G. L. c. 184, s. 33.
2. The common land may be designated in relation to phases within a subdivision. If all lots within a phase are withdrawn from a subdivision, or not built, then the common land associated with that phase will not be subject to this Section.

7.1.10 Procedures for Approval.

1. *Filing of Application.* Any application for the granting of a special permit by the Planning Board to approve an open space residential development shall be filed with the Board, with a copy filed forthwith with the Town Clerk, and shall be accompanied by six copies of a preliminary plan for the entire tract under consideration, prepared by a registered professional architect, engineer or landscape architect.
2. *Contents of Application.* Said application and plan shall be prepared in accordance with requirements for a preliminary subdivision plan in the rules and regulations of the Planning Board governing subdivision of land and shall include proposed location, bulk and height of all proposed buildings. In addition, the applicant shall provide the following information:
 - a. An analysis of the site, including wetlands, slopes, soil conditions, areas within the one-hundred year flood zone, trees over six (6) inches and other natural features as the Planning Board may request.
 - b. A summary of the environmental concerns relating to the proposed plan.

- c. A description of the neighborhood in which the tract lies, including utilities and other public facilities and the impact of the proposed plan upon them.
- d. Evaluation of the open land proposed within the cluster with respect to size, shape, location, natural resource value, and accessibility by residents of the Town or of the cluster.

7.1.11 Review by Other Boards.

Before acting upon the application, the Board shall submit it with the plan to the following boards, which may review it jointly or separately: the Board of Health, the Superintendent of Streets and the Conservation Commission. Any such board or agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Planning Board and the applicant. Failure to make recommendations within thirty-five (35) days of receipt shall be deemed lack of opposition.

7.1.12 Public Hearing.

After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section in conformity with the provisions of G.L. c. 40A, s. 9, and this Zoning Bylaw.

7.1.13 Relation to Subdivision Control Act.

Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Act nor oblige the Planning Board to approve any related definitive plan for subdivision nor reduce any time periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, accept regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Act.

7.1.14 Findings of Board.

The Board may grant a special permit under this section only if it finds that the applicant has demonstrated the following:

- 1. That the OSRD will be in harmony with the general purposes of this chapter and the requirements of Chapter 40A of the General Laws and the long-range plan of the town (if any);
- 2. That the OSRD will not have a detrimental impact on the neighborhood;
- 3. That the OSRD will be designed with due consideration for health and safety;
- 4. That the OSRD is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provision of services;

5. That the OSRD allows for greater variety in prices or types of housing;
6. That the OSRD meets the specific requirements identified above.

7.2 FLEXIBLE DEVELOPMENT

7.2.1 Purpose.

The purpose of this section, Flexible Development, are:

1. To encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
2. To promote the development of housing for affordable low, moderate, and median income families;
3. To preserve historical and archeological resources, to protect the natural environment, including Westford's varied landscapes and water resources;
4. To protect the value of real property;
5. To promote more sensitive siting of buildings and better overall site planning;
6. To perpetuate the appearance of Westford's traditional New England landscape;
7. To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
8. To offer an alternative to standard subdivision development; and
9. To promote the development of housing for persons over the age of fifty-five.

7.2.2 Applicability.

Upon the issuance of a special permit by the Planning Board, and in accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of Westford. Notwithstanding the provisions of Section 7.1, all projects meeting the threshold set forth therein shall submit a plan for a Flexible Development, and, if such special permit is granted, shall conform with the requirements set forth in this Section 7.2.

7.2.3 Procedures.

Applicants for the Flexible Development shall file with the Planning Board seven (7) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.

3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.
5. As part of the Application and Design Process, the Planning Board shall obtain and receive input from all Land Use Boards, Departments, and Commissions.

7.2.4 Design Process.

Each development plan shall follow the design process outlined below. When the development plan is submitted, applications shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic, and cultural resources on the site, and to determine the connection of these important features to each other.
2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g. stream corridors, wetlands), transportation (e.g. road and bicycle networks), and cultural (e.g. recreational opportunities) connections to surrounding land uses and activities.
3. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open-space networks.
4. *Location of Development Area.* The fourth step is to locate building sites, streets, parking areas, paths, and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with Westford's historical development patterns.
5. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

7.2.5 Modification of Lot Requirements.

The Planning Board encourages applicants for Flexible Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitation:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the

neighborhoods.

2. At least 50% of the required side and rear yards in the district shall be maintained in the Flexible Development.

7.2.6 Basic Maximum Number of Dwelling Units.

The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots allowed in the zoning district in which the property is located (i.e. conventional subdivision). The burden of proof shall be upon the Applicant to submit such evidence as necessary to support the calculation of the allowable number of lots, based upon accepted standards of soil testing for sewage disposal systems on the individual lots; limitation due to wetlands, flood plains, and steep slopes; and requirements of the Planning Board's Subdivision Rules and Regulations.

7.2.7 Density Bonus.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty (50) percent of the Basic Maximum Number. All dwelling units awarded as a density bonus shall be limited to not more than two bedrooms. Computations shall be rounded to the next lower integer. A density bonus may be awarded in the following circumstances:

1. *Open Space.* For each additional ten (10) percent of the site (over and above the required ten (10) percent) set aside as contiguous open space, a bonus of five (5) percent of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed twenty-five (25) percent of the Basic Maximum Number. (A maximum density bonus for this provision would require a minimum of sixty (60) percent open space.)
2. *Age Restricted.* For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed ten (10) percent of the Basic Maximum Number.
2. *Design.* Where the Planning Board determines that the development is in substantial conformance with design standards that shall be promulgated by the Planning Board, a bonus of up to fifteen (15) percent of the Basic Maximum Number may be awarded.

7.2.8 Affordable Component.

[Amended 05-06-06 Art. 25] As a condition of the grant of any special permit for a Flexible Development, a minimum of fifteen (15) percent of the total number of dwelling units shall be restricted in perpetuity to people/persons with families who meet or qualify under this Bylaw's definition of low, moderate, or median

income. The perpetuity restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Westford Housing Authority for a period not less than 120 days after notice thereof. The affordable component shall be divided as follows:

1. Five (5) percent of the units shall be affordable to persons or families qualifying as low income;
2. Five (5) percent of the units shall be affordable to persons or families qualifying as moderate income; and
3. Five (5) percent of the units shall be affordable to persons or families qualifying as median income.

When computing the number of affordable units, the number will be rounded to the next lower integer.

7.2.9 Standards.

The following standards shall apply in a Flexible Development:

1. *Types of Buildings.* The Flexible Development may consist of any combinations of single-family, two-family, and multifamily residential structures. A multifamily structure shall not contain more than five (5) dwelling units. The architecture of all multifamily buildings shall be residential in character, particularly providing gabled roofs, predominately wood siding, an articulated footprint, and varied facades. Residential structures shall be oriented toward the street serving premises and not the required parking area.
2. *Roads.* The principal roadway(s) serving the site may be designed to conform with the standards of the Planning Board where the roadway is or may be ultimately intended for dedication and acceptance by the Town of Westford. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.
3. *Parking.* Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation.
4. *Buffer Areas.* A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed, or removed, except for normal maintenance. The Planning Board may waive the buffer requirement.
 - a. where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50) feet in depth which may include such restricted land area within such

- buffer area calculation;
 - b. where the land abutting the site is held by the Town for conservation or recreation purpose; or
 - c. the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
5. *Drainage.* Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

7.2.10 Contiguous Open Space.

A minimum of ten (10) percent of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town and administered by the Conservation Commission, shall be subject to a recorded restriction pursuant to G.L. c. 184 enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational, or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purpose.

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purpose set forth in Section 7.2.1, above. In no case shall the percentages of contiguous open space which is wetlands exceed fifty (50) percent of the tract.
2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to twenty (20) percent of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.
4. Underground utilities to serve the Flexible Development site may be located within the contiguous open space.

7.2.11 Ownership of the Contiguous Open Space.

The contiguous open space shall, at the Planning Board's election, be conveyed to:

1. The Town of Westford and administered by the Conservation Commission;
2. A nonprofit organization, the principle purpose of which is the conservation of open space and any of the purposes for such open space set forth above; and

3. A corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Westford to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such an event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

7.2.12 Decision.

The Planning Board may approve, approve with conditions, or deny a special permit for a Flexible Development after determining whether the Flexible Development better promotes the purposes of Section A of this Flexible Development Bylaw than would a conventional subdivision development of the same locus.

7.2.13 Relation to Other Requirements.

The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.

7.3 ASSISTED LIVING FACILITIES

7.3.1 Purpose.

The purpose of this Section is to provide a mechanism for the approval of:

1. Assisted living facilities (ALF) that offer supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition;
2. The development of ALF in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings;
3. The development of ALF in a manner harmonious with the surrounding land uses while protecting natural resources and open space; and
4. The appropriate reuse of land and buildings that are no longer needed or